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MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER No. 22

PROHIBITING THE USE OF TRAWLS IN SAN MIGUEL BAY

In order to effectively protect the municipal fisheries of San Miguel Bay, Camarines Norte and Camarines Sur, and to conserve fish and other aquatic resources of the area, I, Ramon Magsaysay, President of the Philippines, by virtue of the powers vested in me by law, do hereby order that:

1. Fishing by means of trawls (utase, otter and/or paranzella) of any kind, in the waters comprised within San Miguel Bay, is hereby prohibited.

2. Trawl shall mean, for the purpose of this Order, a fishing net made in the form of a bag with the mouth kept open by a device the whole affair being towed, dragged, trailed or trawled on the bottom of the sea to capture demersal, ground or bottom species.

3. Violation of the provisions of this Order shall subject the offender to the penalty provided under section 83 of Act 4003, or a fine of not more than two hundred pesos, or imprisoment for not more than six months, or both, in the discretion of the Court.

Done in the City of Manila, this 5th day of April, nineteen hundred and fifty-four and of the Independence of the Philippines, the eight.

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER No. 23

PROVIDING AN AWARD OF ONE HUNDRED THOUSAND PESOS FOR THE BEST METHOD OF ERADICATING RATS BY MEANS OF MICRO-

ORGANISM—VIRUS, BACTERIUM, BACILLUS OR FUNGUS—NOT DANGEROUS TO HUMAN BEINGS, ANIMALS AND PLANTS

WHEREAS, it is imperative that immediate steps be taken towards the protection of the life and health of the people and of the country's agricultural crops and valuable plants from the scourge of animal pests that are menace to society and a blight to the national economy; and

WHEREAS, to give added impetus to the realization of this objective, it is advisable to enlist the support and assistance of every resident of this country by offering the best incentive designed to encourage and inspire his creative effort in this direction;

NOW, THEREFORE, I, Ranom Magsaysay, President of the Philippines, by virtue of the powers vested in me by law, do hereby order:

1. The sum of ₱100,000 is authorized to be paid out of any existing appropriations for the Executive Office that may be lawfully used for the purpose, as prize or award to any person who can discover any microorganism—virus, bacterium, bacillus or fungus—capable of killing outright and exterminating rats that spread disease or destroy agricultural crops, products, foods, clothing and plants essential to the national economy and useful to the life, health and well-being of the people.

2. The rat-killing microorganism, such as virus, bacterium, bacillus or fungus for which the prize should be awarded, shall not be dangerous or harmful to human beings, to livestock, to other valuable animals and plants.

3. A Committee is hereby created called Committee on the Rat Control Award, composed of the Secretary of Agriculture and Natural Resources, as Chairman, and the Secretary of Health and the Social Welfare Administrator, as members. This Committee is authorized to create a Board of Judges composed of seven competent scientists who will help the Committee determine and select the winner of the ₱100,000 herein authorized to be awarded. The Committee is also authorized to promulgate rules and regulations governing such award and to call upon any department, bureau, office, agency or instrumentality of the Government, including the government-owned or controlled corporations, for such assistance as it may require in determining and selecting the winner of the award in accordance with the provisions of this Order.

Done in the City of Manila, this 7th day of April, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the eighth.

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

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MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 24

CREATING THE CONSULTATIVE COUNCIL OF STUDENTS

For the purpose of enabling students to deliberate upon and discuss national problems, participate actively in the conduct of public affairs, promote their interest in civic welfare, stimulate their initiative in youth development programs and in order to bring youth and student problems directly to the immediate attention of the Government, I, Ramon Magsaysay, President of the Philippines, by virtue of the powers vested in me by law, hereby create the Consultative Council of Students.

1. The Consultative Council of Students shall be composed of a Chairman, a Vice-Chairman and seventeen members to be designated by the President for specified terms from recognized leaders in student and youth organizations. The Chairman shall serve as Technical Assistant on Youth and Student Affairs.

2. The Council shall have the following duties and functions:

(*a*) To study and recommend to the President ways and means of encouraging student activity with a view to developing useful skills, civic habits and manly virtues in every young Filipino during the formative years;

(*b*) To study and recommend to the President ways and means of fitting youth and student action into the government program of barrio development and community improvement;

(*c*) To study and recommend to the President ways and means of counteracting subversive activities designed to unduly influence the youth and student population against the established government and democratic way of life;

(*d*) To select undergraduate or graduate students who have the aptitude and qualifications for specialization in particular fields of learning and to recommend them for scholarships; and

(*e*) To study and discuss such other problems concerning youth and student affairs as the President may assign to it and to recommend appropriate solution therefor.

3. The Council shall maintain a Secretariat, under the Chairman, which shall be responsible for the administration of the affairs of the Council.

4. All departments, bureaus, offices, agencies and instrumentalities of the government, including government-owned or controlled corporations, shall extend such necessary

assistance and cooperation as may be requested by the Council through its Chairman.

Done in the City of Manila, this 8th day of April, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the eighth.

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

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EXECUTIVE ORDER NO. 25

AMENDING PARAGRAPH 3, PART II OF EXECUTIVE ORDER NO. 321 DATED JUNE 12, 1950, ENTITLED "PRESCRIBING THE CODE OF THE NATIONAL FLAG AND THE NATIONAL ANTHEM OF THE REPUBLIC OF THE PHILIPPINES"

Paragraph 3, Part II of Executive Order No. 321 dated June 12, 1950, is hereby amended to read as follows:

"3. The National Anthem should not be played and sung for mere recreation, amusement or entertainment purposes in social gatherings purely private in nature or at political or partisan meetings or places of hilarious or vicious amusement. It should, however, be sung in schools so the children may know it by heart. It may also be played during the 'signing off' but not on 'signing on' of radio broadcasting stations."

Done in the City of Manila, this 10th day of April, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the eighth.

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

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EXECUTIVE ORDER NO. 26

AMENDING FURTHER THE FIRST PARAGRAPH OF EXECUTIVE ORDER NO. 79, DATED DECEMBER

17, 1945, ENTITLED "CREATING A QUEZON MEMORIAL COMMITTEE TO TAKE CHARGE OF THE NATION-WIDE CAMPAIGN TO RAISE FUNDS FOR THE ERECTION OF A NATIONAL MONUMENT IN HONOR OF THE LATE PRESIDENT MANUEL L. QUEZON"

The first paragraph of Executive Order No. 79 dated December 17, 1945, as amended by Executive Order No. 12 dated August 19, 1946, Executive Order No. 137 dated May 7, 1948, Executive Order No. 164 dated August 12, 1948, Executive Order No. 213 dated April 20, 1949, Executive Order No. 233 dated June 30, 1949, Executive Order No. 387 dated December 22, 1950, and Executive Order No. 627 dated October 8, 1953, is hereby further amended to read as follows:

"By virtue of the powers vested in me by law, I, Ramon Magsaysay, President of the Philippines, do hereby create and constitute a Quezon Memorial Committee which shall be composed of the following:

Hon. Vicente Orosa	Chairman
Hon. Filemon C. Rodriguez	Vice-Chairman
Hon. Ramon Roces	Vice-Chairman
The Secretary of Finance	Member
The Secretary of Education	Member
The Secretary of Labor	Member
Hon. Jorge B. Vargas	Member
The President, Philippine Chamber of Commerce	Member
The President, National Federation of Women's Clubs of the Philippines	Member
The President, Manila Rotary Club	Member
The President, JAYCEES	Member
The President, Lions International, Manila	Member
The Treasurer of the Philippines	Member
Mr. Eugenio Puyat	Member"

Done in the City of Manila, this 19th day of April, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the eighth.

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
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MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 27

PROHIBITING THE USE OF PUBLIC FUNDS FOR THE ENTERTAINMENT OF VISITING OFFICIALS

AND THE COLLECTION OF CONTRIBUTIONS FROM GOVERNMENT OFFICIALS AND EMPLOYEES FOR THE SAME PURPOSE

WHEREAS, experience has shown that expenses incurred by local governments for the entertainment of inspecting or visiting members of the Cabinet or other ranking government officials constitute a heavy drain on their finances;

WHEREAS, these officials are provided with funds for their travelling expenses and are entitled to reimbursement of said expenses actually incurred by them in their official inspection or visit from the funds pertaining to their respective offices; and

WHEREAS, this administration is committed to the use of public funds for strictly official purposes;

NOW, THEREFORE, by virtue of the authority vested in me by law, I, Ramon Magsaysay, President of the Philippines, do hereby prohibit the use of local governments' funds for the entertainment of any government official who may be on official inspection or visit in the provinces, cities or municipalities, and enjoin provincial, city and municipal officials from tendering any such entertainments even if chargeable against private funds. I also prohibit the collection of contributions from government officials and employees for the same purpose.

Done in the City of Manila, this 19th day of April, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the eighth.

RAMON MAGSAYSAY
RAMONL MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

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EXECUTIVE ORDER NO. 28

AMENDING EXECUTIVE ORDER NO. 651 DATED DECEMBER 15, 1953, CREATING THE ROXAS MEMORIAL COMMISSION

By virtue of the powers vested in me by law, I, Ramon Magsaysay, President of the Philippines, do hereby amend Executive Order No. 651 dated December 15, 1953, by

providing that the Roxas Memorial Commission therein created shall be composed of the following:

1. The Secretary of Public Works and Communications	Chairman
2. The Secretary of Commerce and Industry	Vice-Chairman
3. The Administrator of Economic Coordination	Member
4. The Administrator, Social Welfare Administration	Member
5. The Treasurer of the Philippines	Member & Treasurer
6. The Director, National Planning Commission	Member
7. Mrs. Trinidad de Leon Vda. de Roxas	Member
8. The President of War Widows	Member
9. The President, Chamber of Commerce of the Philippines	Member
10. The President, Manila Theaters Association	Member
11. The Chairman, Board of Trustees, Arts Council of the Philippines	Member
12. A Representative of the Philippine National Press Club	Member
13. A Representative of the Women Writers Club	Member

Done in the City of Manila, this 23rd day of April, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the eighth.

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

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PROCLAMATION No. 13

ESTABLISHING THE DAYLGHT SAVINGS TIME FOR THE PHILIPPINES DURING THE SUMMER SEASON OF 1954

Pursuant to the authority vested in me by Commonwealth Act No. 91, and in order that officers, employees, and laborers of the government may be afforded sunlight for work and recreation purposes after office hours, and to effect savings in the use of light both to the government and the general public, I, Ramon Magsaysay, President of the Philippines, do hereby proclaim daylight saving time

for the Philippines for the period between April twelfth, nineteen-hundred and fifty-four, and July first, nineteen-hundred and fifty-four, and hereby order that at twelve o'clock midnight on April eleventh, nineteen-hundred and fifty-four, the standard time in the Philippines fixed in the aforesaid Act shall be advanced one hour, and at twelve o'clock midnight on June thirtieth, nineteen-hundred and fifty-four, the time fixed as above-stated shall be set back or retarded one hour so as to return to standard time.

Employers and the public in general are hereby enjoined to give effect to the purpose and intent of this Proclamation and of Act numbered ninety-one. For purposes of astronomy and meteorology, however, the mean astronomical time to one hundred and twenty degrees East longitude, Greenwich Meridian, may be used as heretofore.

In witness whereof, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done at the City of Manila, this 6th day of April, in the year of Our Lord, nineteen-hundred and fifty-four, and of the Independence of the Philippines, the eighth.

[SEAL] RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

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BY THE PRESIDENT OF THE PHILIPPINES

PROCLAMATION NO. 14

RESERVING CERTAIN AREA OF THE PHILIPPINE WATERS WITHIN THE JURISDICTION OF QUEZON PROVINCE FOR A MARINE BIOLOGICAL STATION TO BE ESTABLISHED AND OPERATED BY THE LUZONIAN COLLEGES, UNDER THE CONTROL AND SUPERVISION OF THE DIRECTOR OF FISHERIES, FOR SCIENTIFIC AND EDUCATIONAL STUDIES OF MARINE AND ESTUARINE FAUNA AND FLORA AS WELL AS THE OCEANOGRAPHY OF THE WATERS OF THE RESERVATION PRINCIPALLY FOR THE WISE UTILIZATION AND CONSERVATION OF THE AQUATIC RESOURCES OF THE AREA

Upon recommendation of the Secretary of Agriculture and Natural Resources and pursuant to the provisions of section 73 of Act Numbered Four thousand and three, as amended, I hereby reserve for a marine biological station to be established and operated by the Luzonian Colleges under the supervision and control of the Director of Fisheries, subject to private rights if any there be, a certain marine area of Philippine waters situated in the Municipalities of Lucena and Padre Burgos, Quezon Province, Island of Luzon, and more particularly described and delimited as follows:

"Starting from the coastline off Tayabas Point (13° 33' 30" N. 121° 36' 45" E.), Lucena, Quezon Province, Luzon Island and following the line due south to a position (13° 51' 00" N. 121° 36' 45" E.) about 2 ½ miles from Tayabas point, thence along the line due east to a position (13° 51' 00" N. 121° 52' 12" E.) about 15½ miles distant from the immediately preceding position, thence along the line due north to its intersection with the coastline of the mainland of Luzon Island, and thence along the coastline to the starting point."

The use of the said reservation shall be subject to the following rules and regulations:

1. That commercial fishing shall be limited to the use of the following fishing appliances with certain limitations: *baklad, kawil, pante, kitang, pukot laot, pukot tabi, pahila, pabahay, dayakus, sapyaw, basnig, salambao, bintol, bombon, katigbi, kubkob,* and *Muro-ami.* However, all forms of subsistence fishing gear such as *bingwit, dala, sakag, pana, subsod* and the like shall be allowed without restriction at any time of the year. *Provided, however,* That *baklads* shall be constructed with a distance of not less than 200 meters from each other and not less than 100 meters if owned by the same owner. *Provided, further,* That *baklad* set across straits, channels, streams and rivers shall leave open one third of the passage to allow free navigation and migration, to and from, of estuarine and catadromous fishes.

2. *Sapyaw, basnig, talacop, cubcob, largarete* and *muro-ami shall* only be allowed to operate during the southwest and northerly period (May to February, inclusive of each year) and closed during the rest of the year (March and April).

3. That the catching of *bañgos* fry (*kawag-kawag*) and *suggo* fry shall be allowed; provided, that the fry of other commercial fishes shall be returned back into the water unharmed.

4. That the catching of the bañgos breeders (*sabalo*) shall be prohibited from February 1 to July 31, inclusive of each year.

5. That the catching of the fry of *banak,* sardines, herrings, mackerel, caranx, samaral, *alimasag* and *alimango* shall be prohibited at all season of the year in the reservation.

6. That the destruction of coral reefs and other natural habitats of aquatic animals, except in the interest of safe navigation, shall be prohibited. The commercial gathering of coral rocks, sand and gravel for construction purposes shall be subject to special permits to be issued by the Secretary of Agriculture and Natural Resources.

7. That the operation of trawls of any kind (beam, otter, paranzella and Danish) shall be entirely prohibited at all times of the year within the reservation.

8. The gathering of edible seaweeds, mollusks and echinoderms shall be limited for home consumption and subject to permit issued by the Secretary of Agriculture and Natural Resources.

9. The gathering of commercial shells shall be subject to the following regulations:

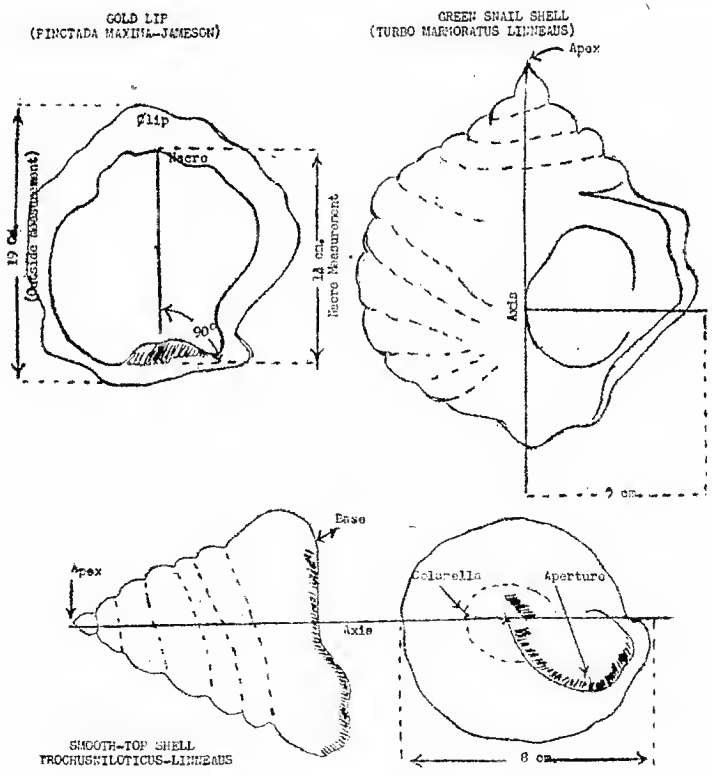
It shall be unlawful for any person to take, sell, transfer or have in possession for any purpose whatsoever shells or valves smaller than the minimum sizes hereinbelow described:

(*a*) *Pinctada maxima* (Jameson)—commonly known as the goldlip pearl shell or "concha blanca"; nineteen centimeters, maximum outside long axis measurement, taken at right angles to the base. (See diagram)

(*b*) *Pinctada margaritifera* (Linneaus)—commonly known as the black-lip pearly shell or "concha negra"; eleven centimeters maximum outside long axis measurement, taken at right angles to the base. (See diagram)

(*c*) *Trochus niloticus* Linneaus—commonly known as the smooth top shell, "simong" or "trocha" smooth variety; eight centimeters across the least diameter of the base, measured at right angles to the axis. (See diagram)

(*d*) *Trochus noduliferus* Lemarck—commonly known as "babae' or female and in the export trade as "hirose" shells; five centimeters across the least diameter of the base, taken at right angles to the axis. (See diagram)



DIAGRAM

(*e*) *Turbo marmoratus* Linneaus—commonly known as green snail shell, turban shell, "lalong" or "bolalo", nine centimeters across the least diameter of the base, measured at right angles to the axis. (See diagram)

Any undersized shell or valve removed from the water through accident, or in ignorance of its size, shall be returned to the water immediately without being opened; otherwise, the offender will be penalized, in accordance with the provisions of the law and this Order, and such offense shall be sufficient cause for the cancellation of the license.

10. Except for scientific and educational purpose, or for propagation, it shall be unlawful to take or catch fry except those prescribed in No. 3 of this regulation or fish eggs of all forms of aquatic animals in the reservation.

11. That all technical installations such as propagation and culture ponds, scientific instruments, live cages, etc, shall not be removed, destroyed or otherwise tampered by any fisherman or individual within the reservation.

The words and terms used in this Proclamation shall be construed as follows:

1. "Baklad" or fish corral means a stationary weir or trap devised to intercept capture fish, consisting of rows of stakes or bamboo, palma brava or other materials fenced with either split bamboo mattings or wire nettings with one or more enclosures usually with easy entrance but difficult exit, and with or without leaders to direct the fish to the catching chambers or purse.

2. "Basnig"—originally, a Visayan term for a conical or box-like bag net of sinamay or cotton webbing, operated from an outrigger or motorboat as a huge dip-net with the aid of light.

3. "Sapyaw"—a round-haul seine made of cotton netting, operating from two boats with the aid of lights.

4. "Dayakos"—a sinamay filter net operated in river mouths for taking *alamang* (small shrimps) and *hipon* (larger shrimps) during flood tide. In Batangas and Laguna de Bay it also refers to beach seines of sinamay or cotton webbing.

5. "Pante"—drift, set, gill or entangling type of nets.

6. "Kawil"—handlines or drop lines operated with or without lights.

7. "Pahila"—or "sibid sibid"—a troll line towed by an outrigger or motorboat.

8. "Kitang"—a set long line with branching lines (gangings) each provided with a hook.

9. "Pabahay" a floating fish trap consisting of a semi-circular enclosure of bamboo mattings, provided with a one-way entrance for fish and buoyed up by bamboo raft; anchored at from 10 to 50 fathoms and operated usually with a light in the evening.

10. "Salambao"—a huge lift net operated on a lower platform with or without the aid of light.

11. "Bintol"—a small, shallow, square baited lift net for catching crabs.

12. "Bingwit"—a general term for pole and line.

13. "Dala"—a general term for cast net.

14. "Bumbon"—a fish shelter made by tying or piling together bunches of twigs, bushes, branches of trees, shrubs, and anchoring these on a desired spot.

15. "Sakag" a push net for taking shrimps and other shallow-water form of fish. It is either made of sinamay or cotton netting mounted on a collapsible, trianguiar frame.

16. "Largarete" a set gill net of cotton twine hung like a curtain from an anchored banca by two bamboo poles attached fore and aft.

17. "Katigbi"—a drive-in net made of a rectangular piece of fine-meshed cotton netting held by two men. Fish are driven by a line of coconut or banana leaves strung along a chain leadline.

18. "Pukot"—a general term for various types of nets operated from the beach to deep water. This includes *pukot panggilid* (beach seine), *pukot panuliñgan* and similar kinds of *pukot laot*.

19. "Talacop" or "kubkob"—a purse or stop seine, the capture being effected by enclosing, pursing and/or impounding.

20. "Trawl"—any kind of bottom drag net pulled by a motor vessel, either opened by a beam, a pair of otter doors, or two towing vessels.

21. "Muro-ani"—a drive-in net made of coarse cotton webbing and operated in submerged reefs. Fish are driven by divers each provided with weighted rope and coconut leaf stringers.

22. "Spawning banak"—shall mean mullets which are sexually mature and which carry ripe eggs and milt and are making seaward migration for the purpose of breeding.

23. "Spawning sabalo"—shall mean the breeder *bañgos* which carry ripe eggs and milt and are ready to spawn.

24. "Kawag-kawag"—are the fry of *bañgos* (Chanos chanos) measuring not more than 15 millimeters long.

25. "Aligasin"—shall mean the fry and fingerling or young of mullets (banak) belonging to the family Mugilidæ.

26. "Siliniasi"—shall mean the fry of herrings and sardines measuring less than three centimeters long.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 7th day of April, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the eighth.

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

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BY THE PRESIDENT OF THE PHILIPPINES

PROCLAMATION NO. 15

DECLARING THE FIRST WEEK OF MAY, 1954, AS NATIONAL RICE WEEK

WHEREAS, one of the principal and immediate objectives of this administration is to achieve self-sufficiency in rice; and

WHEREAS, in order to attain this objective, it is necessary to focus national attention to the rice problem by designating a period during which the people may devote their time, thought and energies to helping in the solution of said problem;

NOW, THEREFORE, I, Ramon Magsaysay, President of the Philippines, by virtue of the powers vested in me by law, do hereby declare the first week of May, 1954, as National Rice Week and designate the Department of Agriculture and Natural Resources to take charge of, and coordinate, all activities in celebration of said Week.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 23rd day of April, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the eighth.

[SEAL] RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

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PROCLAMATION NO. 16

DECLARING THE LAST WEEK OF MAY, 1954, AS SOIL CONSERVATION WEEK

WHEREAS, the Philippines being essentially an agricultural country, the soil may well be regarded as the very foundation of the national economy; and

WHEREAS, it is necessary that steps be taken to conserve the soil and thereby insure its productivity;

NOW, THEREFORE, I, Ramon Magsaysay, President of the Philippines, by virtue of the powers vested in me by law, do hereby declare the last week of May, 1954, as Soil Conservation Week and designate the Department of Agriculture and Natural Resources to take charge of, and coordinate, all activities in celebration of said Week.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 23rd day of April, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the eighth.

[SEAL] RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

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PROCLAMATION NO. 17

REVOKING PROCLAMATION NO. 599, DATED JULY 6, 1933, AND DECLARING OPEN TO DISPOSITION UNDER THE PROVISIONS OF THE PUBLIC LAND ACT THE LAND EMBRACED THEREIN SITUATED IN THE MUNICIPALITY OF ECHAGUE, PROVINCE OF ISABELA, ISLAND OF LUZON

Upon the recommendation of the Secretary of Agriculture and Natural Resources, and by virtue of the powers vested in me by law, I, Ramon Magsaysay, President of the Philippines, do hereby revoke Proclamation No. 599, dated July 6, 1933, and declare open to disposition under the provisions of the Public Land Act the parcel of land embraced therein situated in the Municipality of Echague, Province of Isabela, Island of Luzon.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 23rd day of April, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the eighth.

[SEAL] RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

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BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 20

COORDINATING THE RAT-EXTERMINATION ACTIVITIES OF ALL GOVERNMENTAL AGENCIES IN COTABATO UNDER THE SUPERVISION OF THE TASK FORCE OF THE ARMED FORCES OF THE PHILIPPINES ORGANIZED IN SAID PROVINCE FOR THE PURPOSE

In order to coordinate all activities of the Government in connection with the public calamity brought about by rat infestation in the Province of Cotabato, as declared in Proclamation No. 8, dated March 1, 1954, I, Ramon Magsaysay, President of the Philippines, do hereby order that all rat-extermination activities of all governmental agencies in the province above named shall be under the supervision and control of the Task Force of the Armed Forces of the Philippines organized in said province for the purpose.

Done in the City of Manila, this 7th day of April, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the eighth.

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

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MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER No. 21

REMOVING MR. JOSE ESGUERRA FROM OFFICE AS JUSTICE OF THE PEACE OF PASACAO, CAMARINES SUR

This is an administrative case filed by one Rodolfo Peñas against Justice of the Peace Jose Esguerra of Pasacao, Camarines Sur, for alleged inefficiency, partiality and corruption. The charges were investigated by the District Judge who found the same duly established and recommended respondent's removal from the service, which recommendation is concurred in by the Secretary of Justice.

The record discloses the following facts to have been duly established:

On March 23, 1950, complainant Peñas filed in respondent's court criminal case No. 53 for serious physical injuries against Chief of Police Juan de Guzman and policemen Macario Martires and Benjamin Nepomuceno. The following day the respondent, accompanied by the three accused, repaired to the house of the complainant and asked the latter to withdraw his complaint against the peace officers, but he refused. The party left only to return the next morning for the same purpose. This time, however, the respondent informed Peñas that if he did not accede to his request, the former would accuse him of a more serious offense than that for which De Guzman and his companions were being prosecuted. Fully aware that he had not committed any crime, Peñas did not

give much thought to respondent's threat and stood pat against his request.

In the morning of March 27, 1950, complainant's wife went to the office of the respondent to inquire whether the three accused had already been arrested, and was informed by him that there would be no such arrest inasmuch as her husband had already been accused of direct assault by Chief of Police De Guzman. That same day in the afternoon Mrs. Peñas returned to respondent's office and, not finding him there, went to his residence. Respondent's wife told her that her husband, the Chief of Police and policemen Nepomuceno and Martires were in the residence of one Gregorio Olivan, which was on the second floor of the same building occupied by the respondent and his family. Parenthetically, it may be stated that Olivan owns the building and the ground floor thereof was leased by him to the respondent. While in respondent's residence, Mrs. Peñas overhead Olivan telling the respondent to take care of the case against the three officers, to which the respondent replied, "Bahala na." According to Mrs. Peñas, Olivan further remarked: "Had you killed Rodolfo Peñas, it would have been better," obviously addressing the three accused.

On March 30, 1950, Peñas was arrested because of a warrant of arrest issued by the respondent in the direct assault case (also docketed by the respondent as criminal case No. 53) filed against him by the chief of police, and he had to post a bond of P6,000 for his temporary release. In that case the complaining witness was policeman Nepomuceno, one of those accused by Peñas of serious physical injuries. The preliminary investigation of the case was held the following day despite the request of accused Peñas for postponement for a few days to enable him to engage the services of a lawyer. A few days later complainant met respondent in the City of Naga and the latter reminded the former of the seriousness of the case against him. On April 5, 1950, the respondent, obviously believing that he had no jurisdiction over criminal case No. 53 for serious physical injuries against Chief of Police De Guzman et al., issued an order elevating the record thereof to the Court of First Instance, without making any finding as to whether or not there was probable cause. Respondent did not issue any warrant of arrest against the accused peace officers.

From the above, I am satisfied that, as found by the investigator, the respondent really took advantage of his official position to influence Peñas to withdraw his complaint against Chief of Police De Guzman and two of his policemen, and that, failing in this, he was instrumental in the prosecution of Peñas for direct assault.

With respect to the charge of inefficiency, the complainant submitted as evidence a copy of respondent's decision in criminal case No. 45 for physical injuries (Exhibit D). The District Judge also took official notice of the order issued by the respondent in criminal case No. 53 against the three peace officers (Exhibit C). According to the Judge, when he examined the respondent, the latter did not know the different steps to be taken during a preliminary investigation and even expressed the erroneous view that it has three stages.

An examination of the order, Exhibit C, and the decision, Exhibit D, shows that the narration of facts contained therein is very incoherent and hardly understandable. What is even anomalous, the dispositive portion of the decision imposes a penalty of "imprisonment of 10 days or a fine of not exceeding P200," thereby leaving to the accused the discretion to fix the amount he wanted to pay. As already stated, respondent's order, Exhibit D, remanding the case against Peñas to the Court of First Instance did not state

whether there was probable case against the accused. Neither is there any explanation, except respondent's gross inefficiency, why he gave the same docket number to two criminal complaints.

In view of the foregoing, I find the respondent guilty of the charges. Considering the seriousness of the irregularities committed by him, I am constrained to take drastic action against him as recommended by the District Judge and the Secretary of Justice.

Wherefore, Mr. Jose Esguerra is hereby removed from office as Justice of the Peace of Pasacao, Camarines Sur, effective as of the date of his suspension.

Done in the City of Manila, this 7th day of April, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the eighth.

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

43619——2

REPUBLIC ACTS

Enacted during the Third Congress of the Republic of the Philippines First Session

H. No. 163

[REPUBLIC ACT No. 973]

AN ACT APPROPRIATING THE SUM OF TWO MILLION PESOS FOR THE CONTROL AND ERADICATION OF RATS AND OTHER AGRICULTURAL PESTS AND DISEASES.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The sum of two million pesos or so much thereof as may be necessary is hereby appropriated, out of any funds in the National Treasury not otherwise appropriated, to be expended by the Department of Agriculture and Natural Resources for the purchase of materials and payment of labor that may be employed in the control and eradication of rats and other agricultural pests and diseases.

SEC. 2. This Act shall take effect upon its approval.

Approved, March 1, 1954.

H. No. 496

[REPUBLIC ACT No. 974]

AN ACT APPROPRIATING THE SUM OF FOUR MILLION PESOS FOR THE CURRENT OPERATION AND MAINTENANCE OF THE THREE THOUSAND ADDITIONAL EXTENSION CLASSES ORGANIZED IN OCTOBER AND NOVEMBER, NINETEEN HUNDRED AND FIFTY-THREE.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The sum of four million pesos, or so much thereof as may be necessary, is hereby appropriated out of any funds in the National Treasury not otherwise appropriated, for the operation and maintenance of the three thousand additional elementary classes organized in October and November, nineteen hundred and fifty-three, up to the end of the current fiscal year: *Provided,* That the sum of three million six hundred thirty thousand two hundred pesos shall be expended for salaries and wages of teachers of such extension classes who shall not be paid without a previous joint certification under oath of the Division Superintendent of Schools and the corresponding supervising teachers certifying to the effect that the corresponding extension classes were constituted and are actually in operation, stating the dates when such extension classes were opened, the number of pupils in each when constituted and at the time of certification, and the names of teachers employed therein; and the balance for sundry expenses and/or textbooks.

SEC. 2. This Act shall take effect during the fiscal year ending June thirtieth, nineteen hundred and fifty-four.

Approved, March 24, 1954.

S. No. 68

[REPUBLIC ACT No. 975]

AN ACT AUTHORIZING THE DIRECTOR OF PUBLIC SCHOOLS TO CONFER APPROPRIATE DEGREES UPON STUDENTS GRADUATING FROM THE FOUR-YEAR TEACHERS CURRICULA IN SPECIALLY DESIGNATED PUBLIC SCHOOLS AND FOR OTHER PURPOSES.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The Director of Public Schools, subject to the approval of the Secretary of Education, is hereby authorized to confer appropriate degrees upon students completing the requirements of any of the teacher-education curricula in specially designated public schools on the collegiate level requiring at least four years of work.

SEC. 2. The Director of Public Schools, subject to the approval of the Secretary of Education, shall prescribe the rules and regulations governing the granting of the degrees as provided for in section one of this Act.

SEC. 3. All laws and regulations or parts thereof which are inconsistent with the provisions of this Act are hereby repealed.

SEC. 4. This Act shall take effect upon its approval.

Approved, April 3, 1954.

H. No. 1291

[REPUBLIC ACT No. 976]

AN ACT APPROPRIATING THE SUM OF TWO HUNDRED AND FIFTY THOUSAND PESOS TO COVER DEFICIENCIES IN THE APPROPRIATIONS FOR THE OFFICE OF THE PRESIDENT OF THE PHILIPPINES.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The sum of two hundred and fifty thousand pesos is appropriated, out of any funds in the National Treasury not otherwise appropriated, to cover deficiencies in the appropriations for the Office of the President of the Philippines.

SEC. 2. This sum shall be spent for the following purposes:

I. Sundry Expenses:	
Traveling expenses of personnel	₱5,000.00
Postal, telegraph, telephone, cable	11,000.00
Illumination and power service	4,000.00
Consumption of supplies and materials	15,000.00
Printing and binding reports	10,000.00
Other services	30,000.00
Total	₱75,000.00

II. Special purpose:

For a fund to be expended for official purposes in the discretion of the President	₱30,000.00
For salaries and other expenses of expert, technical personnel whom the President may employ, etc.	145,000.00
Total	₱250,000.00

SEC. 3. This Act shall take effect upon its approval.

Approved, April 21, 1954.

RESOLUTIONS OF CONGRESS

Resolved during the Third Congress of the Republic of the Philippines First Session

S. Ct. R. No. 1

[CONCURRENT RESOLUTION No. 1]

CONCURRENT RESOLUTION AUTHORIZING THE APPOINTMENT OF A JOINT COMMITTEE OF BOTH HOUSES TO NOTIFY THE PRESIDENT OF THE PHILIPPINES THAT THE CONGRESS NOW CONVENED IN REGULAR SESSION, IS READY TO RECEIVE HIS MESSAGE, IF ANY, IN A JOINT SESSION.

Resolved by the Senate, the House of Representatives of the Philippines concurring, To authorize, as it hereby authorizes, the appointment of a joint committee of both Houses of the Congress to be composed of six members, three to be appointed by the President of the Senate, and three by the Speaker of the House of Representatives, to notify the President of the Philippines that the Congress now convened in regular session, is ready to receive his message, if any, to the Congress for the opening of the First Session of the Third Congress of the Republic of the Philippines in a joint session for the purpose.

Adopted, January 25, 1954.

H. Ct. R. No. 1

[CONCURRENT RESOLUTION No. 2]

CONCURRENT RESOLUTION PROVIDING THAT THE SENATE AND THE HOUSE OF REPRESENTATIVES HOLD A JOINT SESSION TO HEAR THE MESSAGE OF THE PRESIDENT OF THE PHILIPPINES.

Resolved by the House of Representatives of the Philippines, the Senate concurring, That both Houses of the Congress of the Philippines hold a joint session on January twenty-five, nineteen hundred and fifty-four at five o'clock in the afternoon in the Session Hall of the House of Representatives, to hear the message of the President of the Philippines.

Adopted, January 25, 1954.

S. Ct. R. No. 2

[CONCURRENT RESOLUTION No. 3]

CONCURRENT RESOLUTION REQUESTING THE PRESIDENT OF THE PHILIPPINES TO MAKE REPRESENTATIONS TO THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND TO TAKE THE NECESSARY STEPS TO IMPLEMENT THE SAME FOR THE PASSAGE OF H. J. R. 320,

83RD CONGRESS, OR THE APPROVAL OF A SIMILAR BILL OR MEASURE, AUTHORIZING THE APPROPRIATION OF AT LEAST ONE HUNDRED MILLION DOLLARS FOR ADDITIONAL WAR DAMAGE PAYMENTS IN THE PHILIPPINES.

WHEREAS, the second Congress of the Republic of the Philippines approved and adopted Concurrent Resolution No. 32 on March 11, 1952 requesting the President of the Philippines to make the necessary representations to the Government of the United States of America, and to take such steps as may be needed to implement the same for the passage of H. R. No. 7600 and its counterpart in the Senate (S. .....), United States 81st Congress, or the approval of a similar bill authorizing the appropriation of at least 100 million dollars for additional payments of war damages in the Philippines;

WHEREAS, the said resolution recited the history and basis of the passage of the Philippine Rehabilitation Act of 1946 by the United States Seventy-Ninth Congress, by which the Philippine War Damage Commission was created and authorized to disburse, as it did disburse, the amounts of 400 million dollars and 120 million dollars for the payment of private and public claims, respectively, resulting from property loss and destruction in the Philippines wrought by the last Pacific War;

WHEREAS, the defunct Philippine War Damage Commission was able to pay eligible private war damage claimants whose claims were approved in excess of $500, only that amount plus 52½ per cent of the balance of their corresponding approved amounts on the basis of the 1941 values;

WHEREAS, the postwar replacement cost of building materials has risen more than three times their prewar 1941 values;

WHEREAS, the United States Seventy-Ninth Congress provided in Section 102 of the aforementioned Philippine Rehabilitation Act of 1946 a maximum payment of 75 per cent of the approved amount of the claims larger than $500, thereby making an implied commitment to provide the necessary funds to make payments to that extent on the said larger claims;

WHEREAS, the same Concurrent Resolution No. 32 recited the basis for additional war damage payments by the United States, among which is the fact that that commitment has become an obligation on its part;

WHEREAS, as a direct result of efforts undertaken by a Mission under Senate Resolution No. 134 of our Congress, H. J. R. No. 320 was introduced by Congressman G. P. Miller in the House of Representatives of the United States Congress on July 30, 1953, Eighty-Third Congress, authorizing the appropriation of 100 million dollars for additional war damage payments in the Philippines, and the same is now pending consideration by the said House of Representatives;

WHEREAS, it will redound not only to the best interest of the Philippine Government and people if the said resolution or a similar bill or resolution were passed by the United States Congress, but will also result in enhancing the prestige and trade of the United States of America in the Philippines, Asia and throughout the world;

WHEREAS, assistance to the Philippines in the form of additional war damage payments is also in consonance with the global policy of the United States Government to help free nations improve their economic conditions in order to enable them to resist communist aggression more effectively:

WHEREAS, to resist communist aggression within and outside its borders, the Republic of the Philippines is spending considerable amounts of money notwithstanding its limited financial resources, appropriating for the fiscal year 1954 alone the sum of ₱174,919,910 for the Department of National Defense, which sum constitutes 37 per cent of the total appropriation of the said Republic for the ordinary and extraordinary expenditures of its government for the said fiscal year, of which appropriation for the said Department the sum of ₱10,606,390 is for the maintenance of elements of the Armed Forces of the Philippines as a United Nations unit in Korea, and the greater portion is for the expenses of fighting the communist inspired Huk rebellion in the Philippines; and

WHEREAS, additional war damage payments of at least one hundred million dollars are not only essential to the rehabilitation of the economy of the Philippines, but also indispensable to contain and fight communism in the Far East: Now, therefore, be it

Resolved by the Senate, the House of Representatives of the Philippines concurring, That the President of the Philippines be requested, as he is hereby requested, to make the necessary representations to the Government of the United States of America, and to take such steps as may be needed to implement the same, for the early passage of H. J. R. 320, 83rd Congress, or the approval of a similar bill, authorizing the appropriation of at least one hundred million dollars for additional payments of war damages in the Philippines.

Adopted, February 25, 1954.

S. Ct. R. No. 5

[CONCURRENT RESOLUTION No. 4]

CONCURRENT RESOLUTION GIVING CONSENT TO MINISTER ROBERTO REGALA TO ACCEPT THE TWO CORONATION MEDALS CONFERRED UPON HIM BY THE BRITISH GOVERNMENT.

Resolved by the Senate, the House of Representatives of the Philippines concurring, That Minister Roberto Regala, be, as he hereby is, given consent to accept the two Coronation Medals conferred upon him by the British Government on the occasion of the crowning in London on June 2, 1953, of Her Majesty Queen Elizabeth II.

Adopted, March 11, 1954.

S. Ct. R. No. 6

[CONCURRENT RESOLUTION No. 5]

CONCURRENT RESOLUTION GIVING CONSENT TO 1ST LT. MANUEL E. MARAVILLA AND 2ND LT. ANTONIO LEDESMA TO ACCEPT "LA CRUZ DE

OFICIAL DE LA ORDEN DEL MERITO CIVIL" AND "LA CRUZ DE CABALLERO DE LA ORDEN DEL MERITO CIVIL," RESPECTIVELY, CONFERRED UPON THEM BY THE SPANISH GOVERNMENT.

Resolved by the Senate, the House of Representatives of the Philippines concurring, That 1st Lt. Manuel E. Maravilla and 2nd Lt. Antonio L. Ledesma, Armed Forces of the Philippines, be, as they hereby are, given consent to accept "La Cruz de Oficial de la Orden del Merito Civil" and "La Cruz de Caballero de la Orden del Merito Civil," respectively, conferred upon them by the Spanish Government.

Adopted, March 11, 1954.

H. Ct. R. No. 14

[CONCURRENT RESOLUTION No. 6]

CONCURRENT RESOLUTION REQUESTING THE PRESIDENT OF THE PHILIPPINES TO MAKE REPRESENTATIONS TO THE GOVERNMENT OF THE UNITED STATES FOR THE ENACTMENT OF APPROPRIATE LEGISLATION ABOLISHING THE EXCISE TAX OF THREE CENTS PER POUND ON PHILIPPINE COCONUT OIL AND FOR THE REFUND TO THE GOVERNMENT OF THE PHILIPPINES OF THE TOTAL AMOUNT COLLECTED BY THE UNITED STATES GOVERNMENT FROM SUCH TAX FROM JULY 4, 1946 TO THE DAY IMMEDIATELY PRECEDING THE EFFECTIVE DATE OF THE DESIRED LEGISLATION ABOLISHING IT, AND FOR THE GRANT OF AUTHORITY TO USE THE REFUND FOR THE REHABILITATION OF THE COCONUT INDUSTRY.

WHEREAS, in spite of President Franklin D. Roosevelt's insistence that it was a violation of the spirit and intent of the Tydings-McDuffie Act of 1934, the basic excise or processing tax of three U. S. cents a pound on Philippine coconut oil was imposed not as a revenue measure but as a measure to protect the vegetable oil and animal-fat industries of the United States;

WHEREAS, as a compromise between the legitimate interest of the Filipino people, on the one hand, and the claim for protection of American farmers engaged in the vegetable oil and animal-fat industries, on the other, the United States Congress authorized the reversion of the proceeds of the excise tax on Philippine coconut oil to the Government of the Philippines with the understanding that none of it would be expended, directly or indirectly, on the local coconut industry;

WHEREAS, the adverse effects on the Philippine coconut industry, of the said 3-cent excise tax are further aggravated by increased utilization of tax-free Brazilian babasu oil in the United States;

WHEREAS, the removal of the said tax on Philippine coconut oil is also in consonance with the global policy of

the United States Government to help free nations improve their economic conditions in order to enable them to resist Communist aggression more effectively;

WHEREAS, the repeal of the said tax will certainly bolster the precarious economy of the Philippines because about one-third of its twenty-million population depend on the coconut industry for a living;

WHEREAS, to resist Communist aggression within and outside its borders, the Republic of the Philippines is spending considerable amounts of money notwithstanding its limited financial resources, appropriating for the fiscal year 1954 alone the sum of ₱174,919,910 for the Department of National Defense, which sum constitutes 37 per cent of the total appropriation of the said Republic for the ordinary and extraordinary expenditures of its Government for the said fiscal year, of which appropriation for the said Department the sum of ₱10,606,390 is for the maintenance of elements of the Armed Forces of the Philippines as a United Nations unit in Korea, and the greater portion is for the expenses of fighting the Communist-inspired Huk rebellion in the Philippines;

WHEREAS, the Government of the Philippines needs funds not only to maintain its active support of the free world against armed Communism but also to hasten the reconstruction and rehabilitation of Philippine economy from the remaining ravages of the last war;

WHEREAS, the Second Congress of the Republic of the Philippines unanimously adopted in its second and third sessions, Concurrent Resolution No. 34 and Concurrent Resolution No. 116, respectively, which endorsed the enactment of two bills introduced in recent sessions of the Congress of the United States proposing to repeal the said onerous tax on Philippine coconut oil, thereby, in a sense, confirming and ratifying previous representations made by the Government of the Philippines to the Government of the United States for the repeal of said tax; and

WHEREAS, in the current session of the United States Congress two new bills providing for the repeal of the 3-cent excise tax on Philippine coconut oil are again under consideration, namely: H. R. No. 5, introduced by Congressman John D. Dingell, otherwise known as the "Excise Tax Reduction Act of 1953", and H. R. No. 5915, introduced by Congressman John J. Allen, to amend certain sections of the United States Internal Revenue Code including the repeal of the 3-cent excise tax: Now, therefore, be it

Resolved by the House of Representatives of the Philippines, the Senate concurring, That the President of the Philippines be requested to make representations to the Government of the United States for the early enactment of H. R. No. 5 or H. R. No. 5915, now pending in the United States Congress, or of any similar bill that may hereafter be introduced for the same purpose;

Resolved, further, That representations be made for the refund to the Government of the Philippines of the total amount collected by the United States Government from the 3-cent excise tax on Philippine coconut oil from July 4, 1946 to the day immediately preceding the date when the desired legislation abolishing the aforesaid tax takes

effect, as a form of assistance to the Philippines and in order to strengthen the mutual security interests of the United States and the Philippines; and

Resolved, finally, That representations be made for the grant of authority to the Philippine Government for the use of whatever sum or sums that may be reverted from the excise tax for the rehabilitation and improvement of the Philippine coconut industry.

Adopted, March 15, 1954.

H. R. No. 24

[RESOLUTION NO. 7]

RESOLUTION CONDEMNING THE VIOLENT ATTACK COMMITTED AGAINST THE MEMBERS OF THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES WHILE IN SESSION AND EXPRESSING THE HOPE FOR THE SPEEDY RECOVERY OF THOSE WHO WERE WOUNDED.

WHEREAS, press dispatches from the United States reported the news of the violent attack committed against the Members of the House of Representatives of the United States while in session, resulting in the wounding of five of them; and

WHEREAS, said attack upon a representative and democratic institution while in the performance of its official functions cannot be justified and must be condemned, however lofty the aspirations which impelled its commission: Now, therefore, be it

Resolved by the House of Representatives of the Philippines, To condemn the violent attack committed against the Members of the House of Representatives of the United States while in session and to express the hope for the speedy recovery of Representatives Alvin Bentley, Ben. F. Jensen, Kenneth Roberts, Clifford Davis, and George H. Fallon who were wounded in said attack; and

Resolved, further, To authorize the Speaker to send a copy of this Resolution to the House of Representatives of the United States and to each of the aforementioned Representatives of the United States who were wounded in said attack, and to cable immediately the contents of this Resolution to the said House of Representatives.

Adopted, March 2, 1954.

DEPARTMENT AND BUREAU ADMINISTRATIVE ORDERS AND REGULATIONS

Executive Office

CIRCULAR LETTER

April 8, 1954

The attention of the Cabinet, at its meeting yesterday was invited to a practice whereby bureau directors engage the services of emergency laborers without previous consultation with, and approval by, the Department Head concerned, a procedure which is considered as not in consonance with the administrative responsibility of the latter. The Cabinet, therefore, clarified the situation by resolving that henceforth the hiring of emergeney laborers, while falling under the initiative of bureau directors, should previously be approved by the Department Secretary before such emergency laborers are required to report for duty.

Observance by all concerned of this Cabinet clarification is hereby requested.

FRED RUIZ CASTRO
Executive Secretary

PROVINCIAL CIRCULAR
(Unnumbered)

April 20, 1954

SPECIAL SESSIONS

To all Provincial Boards:

In view of the many petitions received in this office from Provincial Boards requesting liberalization of the regulations limiting the holding of special sessions by provincial boards and, it having been found out really that the problems which these local legislative bodies have to consider and solve have increased considerably since Liberation such that in many instances provincial boards have been obliged to hold special sessions in excess of the two every month authorized before the war, this Office will not object to the holding of more special sessions when, on account of emergency or urgency of the matters coming up for immediate deliberation by the Provincial Board such matters can not be held pending until the next regular sessions without detriment to the public interest, provided such special sessions shall not exceed two each week in addition to the regular session authorized by law and provided funds for the per diems of the board members are available.

For the information of this Office, it is requested that copies of the minutes of the special sessions thus held be invariably furnished this Office, it being understood that such special sessions have been held only because the matters deliberated upon are urgent and can not be held pending until the next regular session of the Provincial Board.

It may be noted that the per diems of provincial board members have been increased to a maximum of P25, from the maximum of P15 authorized before the passage of Republic Act No. 527. Considering that the outlay necessary for the per diems of provincial board members has to be nearly doubled now, it is suggested that only provinces who have sufficient funds to pay for the per diems of board members avail themselves of this authority and that those provinces which can not provide adequately for all their essential and statutory public services should endeavor to avoid the holding of special sessions notwithstanding the authority given in this circular in order to preclude the incurrence of overdraft in their finances, and embarrassment in meeting statutory and essential obligations.

This circular amends the unnumbered provincial circular, dated November 10, 1952, of this Office on the same subject matter.

FRED RUIZ CASTRO
Executive Secretary

Department of Justice

ADMINISTRATIVE ORDER NO. 50

March 30, 1954

AUTHORIZING CADASTRAL JUDGE SEGUNDO APOSTOL TO HOLD COURT IN THE MUNICIPALITY OF KAPATAGAN, PROVINCE OF LANAO.

In the interest of the administration of justice, pursuant to the provisions of section 56 of Republic Act No. 296, and upon request of Cadastral Judge Segundo Apostol, he is hereby authorized to hold court in the municipality of Kapatagan, Province of Lanao, beginning the first Tuesday of May, 1954, for the purpose of trying all kinds of cases arising from said municipality and the municipalities of Caromatan, Baroy, Lala and Tubod, same province, and to enter judgments

therein giving preference to registration and cadastral cases.

PEDRO TUASON
Secretary of Justice

ADMINISTRATIVE ORDER NO. 51

March 31, 1954

AUTHORIZING CADASTRAL JUDGE SULPICIO V. CEA TO DECIDE PENDING CASES IN MANILA.

In the interest of the administration of justice and upon request of Cadastral Judge Sulpicio V. Cea, he is hereby authorized to decide in Manila all cases pending decision by him.

PEDRO TUASON
Secretary of Justice

ADMINISTRATIVE ORDER NO. 52

April 7, 1954

DESIGNATING JUDGE NICASIO YATCO OF LAGUNA TO ACT AS MEMBER OF THE EIGHTH GUERRILLA AMNESTY COMMISSION.

Pursuant to the provisions of Administrative Order No. 11 of the President of the Philippines, dated October 2, 1946, the Honorable Nicasio Yatco, Judge of the Eighth Judicial District, Laguna, First Branch, is hereby designated to act as member of the Eighth Guerrilla Amnesty Commission in lieu of Judge Luis Ortega who is on leave of absence.

PEDRO TUASON
Secretary of Justice

ADMINISTRATIVE ORDER NO. 53

April 6, 1954

ANTHORIZING JUDGE-AT-LARGE FIDEL VILLANUEVA TO HOLD COURT IN THE PROVINCE OF SORSOGON.

In the interest of the administration of justice and pursuant to the provisions of Republic Act No. 296, the Honorable Fidel Villanueva, judge-at-large, is hereby authorized to hold court in the Province of Sorsogon, as soon as possible, for the purpose of trying all kinds of cases and to enter judgments therein.

PEDRO TUASON
Secretary of Justice

ADMINISTRATIVE ORDER NO. 54

April 7, 1954

AUTHORIZING CADASTRAL JUDGE ELADIO LEAÑO TO HOLD COURT IN TAYUG, PANGASINAN.

In the interest of the administration of justice and pursuant to the provisions of section 56 of Republic Act No. 296, the Honorable Eladio Leaño, Cadastral Judge, is hereby authorized to hold court in Tayug, Pangasinan, beginning April 19, 1954, only for the purpose of continuing the trial of the cases already began by him and to enter judgments therein.

PEDRO TUASON
Secretary of Justice

ADMINISTRATIVE ORDER NO. 55

April 17, 1954

AUTHORIZING JUDGE-AT-LARGE FIDEL VILLANUEVA TO HOLD COURT IN THE PROVINCES OF ALBAY AND SORSOGON.

In the interest of the administration of justice and pursuant to the provisions of section 56 of Republic Act No. 296, the Honorable Fidel Villanueva, Judge-at-Large, is hereby authorized to hold court in the Province of Albay, beginning May 1, 1954 (during Saturdays, Mondays, Tuesdays and Wednesdays) for the purpose of continuing the trial of the cases already begun by him and to try cases with prisoners; and in the Province of Sorsogon (during Thursdays and Fridays) for the purpose of trying all kinds of cases and to enter judgments therein.

PEDRO TUASON
Secretary of Justice

ADMINISTRATIVE ORDER NO. 56

April 17, 1954

AUTHORIZING CADASTRAL JUDGE JOSE M. MENDOZA TO HOLD COURT IN SAN PEDRO TUNASAN, LAGUNA.

In the interest of the administration of justice, pursuant to the provisions of section 56 of Republic Act No. 296, and upon request of Cadastral Judge Jose M. Mendoza, he is hereby authorized to hold court in San Pedro, Tunasan, Laguna, as soon as practicable, for the purpose of continuing the trial of Criminal Cases Nos. 15908, 15909, 15611, and 15913, and to enter judgments therein.

PEDRO TUASON
Secretary of Justice

ADMINISTRATIVE ORDER No. 57

April 7, 1954

AUTHORIZING CADASTRAL JUDGE ENRIQUE MAGLANOC TO HOLD COURT IN LINGAYEN, PANGASINAN.

In the interest of the administration of justice and pursuant to the provisions of section 56 of Republic Act No. 296, the Honorable Enrique Maglanoc, Cadastral Judge, is hereby authorized to hold court in Lingayen, Pangasinan, beginning April 22, 1954, for the purpose of trying all kinds of cases and to enter judgments therein.

PEDRO TUASON
Secretary of Justice

ADMINISTRATIVE ORDER No. 58

April 12, 1954

AUTHORIZING ACTING ADMINISTRATIVE OFFICER ALFREDO VELASCO, BUREAU OF PRISONS TO SIGN TRANSPORTATION ORDERS ISSUED BY THE SAID BUREAU FOR RELEASED OF PRISONERS OFFICIALS, ETC., WHO ARE ENTITLED UNDER THE LAW TO TRAVEL.

Pursuant to section 616 of the Revised Administrative Code, Mr. Alfredo Velasco, Acting Administrative Officer of the Bureau of Prisons, is hereby authorized to sign transportation orders issued by the said bureau for released prisoners, officials, employees and other personnel who are entitled under the law to travel in behalf of the bureau mentioned above, signing as follows:

ALFREDO M. BUNYE
Director of Prisons

By: ALFREDO VELASCO
Acting Administrative Officer

This authority cancels that portion of Administrative Order No. 14, in as far as transportation order is concerned.

PEDRO TUASON
Secretary of Justice

ADMINISTRATIVE ORDER No. 59

April 12, 1954

AUTHORIZING JUDGE-AT-LARGE GAVINO S. ABAYA TO DECIDE IN PASAY CITY CIVIL CASE WHICH WAS PREVIOUSLY TRIED BY HIM WHILE HOLDING COURT IN BULACAN.

In the interest of the administration of justice, the Honorable Gavino S. Abaya, Judge-at-Large, is hereby authorized to decide in Pasay City, Civil Case No. 609 of the Court of First Instance of Bulacan entitled "Toribio Teodoro *vs.* Gervasia San Juan et al." which was previously tried by him while holding court in the Province of Bulacan.

PEDRO TUASON
Secretary of Justice

Department of Agriculture and Natural Resources

Bureau of Forestry

FORESTRY ADMINISTRATIVE ORDER No. 8-3

July 16, 1953

REORGANIZATION OF THE BUREAU OF FORESTRY

1. For the information and guidance of all concerned, the following is the new organization of the Bureau of Forestry in accordance with Republic Act No. 906 (Appropriation Act for the fiscal year 1953-54):

OFFICE OF THE DIRECTOR

Administrative Division

- General Service Section
- Legal Section
- Property Section
- Records Section
- Collection and Disbursement Section

Division of Forest Management

- Management Plan Section
- Public Relations and Statistics Section
- Forest Reserve Section

Division of Forest Concessions and Sawmills

- Licenses Section
- Sawmills Section
- Lumber Inspection Service Section

Division of Forest Investigation

- Silviculture Section
- Forest Products Research Section
- Forest Pests and Diseases Section

Division of Forest Lands and Maps

- Special Uses Section
- Claims and Registration Section
- Mapping Section

Division of Reclamation and Reforestation

Provincial Service

(Forty-six [46] forest districts in accordance with Forestry Administrative Order No. 8-2, dated February 20, 1953)

2. For purposes of administration, there shall be an Advisory Staff of which the Director shall be the Chairman and an Inspection Service headed by the Division Forest Inspector under the Office of the Director; and also the following units (*a*) Afforestation and Reforestation, (*b*) Cooperative Planting, and (*c*) Cinchona Plantation under the Division of Reclamation and Reforestation; and (*a*) Land Classification (PHILCUSA-MSA Fund) and (*b*) Land Classification (Regular Funds) under the Division of Land Classification.

3. This Forestry Administrative Order shall take effect as of July 1, 1953.

PLACIDO L. MAPA
Acting Secretary of Agriculture and Natural Resources

Recommended by:

FLORENCIO TAMESIS
Director of Forestry

FORESTRY ADMINISTRATIVE ORDER NO. 11-3

February 23, 1954

AMENDING SECTION 11 OF FORESTRY ADMINISTRATIVE ORDER NO. 11, DATED AUGUST 8, 1947, ENTITLED "REGULATIONS GOVERNING COLLECTION AND DISPOSITION OF REFORESTATION FUNDS."

1. Section 11 of Forestry Administrative Order No. 11, dated August 8, 1947, and entitled "Regulations Governing Collection and Disposition of Reforestation Funds", is hereby amended to read as follows:

"11. *Disposition of Amounts Collected.*—The amounts collected annually as provided under this Order shall be expended exclusively for reforestation purposes and for reconnaissance survey of public forest lands and for such other expenses as may be deemed necessary for the carrying out of the purposes of the Republic Act No. 115; *Provided, however,* That amounts appropriated annually from reforestation fund shall be expended exclusively for reforestation purposes as follows:

Two-thirds shall be used to carry out reforestation work on watersheds, denuded areas and cogon and open lands within forest reserves, communal forests, timberlands, sand dunes and other public forest lands, etc., for the maintenance, operation, and improvement of the reforestation projects, roads, trails and necessary buildings within or outside such projects, salaries and wages and traveling expenses of the necessary personnel, purchase of the necessary supplies and equipment, and for such other sundry expenses as may be deemed necessary to carry out properly and effectively the purposes of Republic Act No. 115; and

One-third shall be used for reforestation work on logging areas to supplement natural regeneration in the cut-over sections which shall be determined by the Director of Forestry after such areas have been actually examined and permanently demarcated for permanent forest purposes, for the maintenance, operation, and improvement of the project, road, trails, and necessary buildings within or outside such projects, salaries and wages and traveling expenses of the necessary personnel, purchase of the necessary supplies and equipment and for such other sundry expenses as may be deemed necessary to carry out the work in the projects."

2. This Forestry Administrative Order shall take effect on July 1, 1954.

SALVADOR ARANETA
Secretary of Agriculture and Natural Resources

Recommended by:

FELIPE R. AMOS
Director of Forestry

Department of Labor

DEPARTMENT OF LABOR SAFETY ORDER NO. 17

April 8, 1954

USE OF IRON GRILLES OR ANY FORM OF BARS FOR WINDOW OPENINGS IN INDUSTRIAL ESTABLISHMENTS OR OTHER WORK PLACES, ETC.

By virtue of the authority vested in me by Commonwealth Act No. 104, as amended, and upon the recommendation of the Advisory Saftey Council of this Department, the following rules and regulations pertaining to the use of iron grilles on window openings in industrial establishments or other work places are hereby promulgated.

1. The use of iron grilles or any form of bars on all window openings which will impede the use of such window openings as a means of escape or egrees in cases of emergency shall not be allowed in all industrial buildings or work places.

2. Where the use of such iron grilles or bars on window openings is unavoidable, means shall be provided whereby a portion of the window grilles is reserved as auxiliary opening with a locking device that can easily be opened from the inside without the necessity of using keys or any such implements.

3. Where window openings must necessarily be covered, the use of metallic screen wire on wood or steel frames and anchored to the window jambs, may be allowed; provided that a portion of the same is reserved as an auxiliary opening with a locking device that can easily be opened from the inside without the necessity of using keys or such similar implements.

4. In any working area, where all the windows are necessarily provided with iron grilles or metallic screen wire and/or any form of bars, auxiliary openings, as required in rules 2 and 3 above, shall be provided for every other window, but in no case shall the distance between such auxiliary openings be more than 15 meters.

5. All such window openings barred by iron grilles, wooden grilles and/or metallic wires with auxiliary openings as required in rules 2 and 3 above, shall readily be visible with appropriate signs for quick location during daytime and appropriate shielded lights for use during nighttime; and no obstructions interferring with access or visibility shall be permitted.

6. Blue prints of the working drawings of iron grilles, bars or screens on all window openings indicating all the details of constructions and locking devices shall be submitted to the Division of Industrial Safety, Department of Labor, in two copies for approval.

All owners, managers, agents, lessees or any other person in charge or in control of existing industrial establishments and/or buildings or portions thereof and such buildings that may hereafter be constructed, are hereby enjoined to observe or cause to be observed the above rules and regulations.

Violations hereon shall be punishable under the provisions of existing law.

The above rules and regulations shall take effect May 30, 1954.

ELEUTERIO ADEVOSO
Acting Secretary of Labor

Department of Commerce and Industry

BUREAU OF COMMERCE

COMMERCE ADMINISTRATIVE ORDER NO. 10

January 19, 1954

STANDARDIZATION AND INSPECTION OF HEMP SQUARES AND HEMP RUGS, CANTON SQUARES AND CANTON RUGS, AND OTHER PURPOSES.

Pursuant to the provisions of section 79(*b*) of the Revised Administrative Code and sections 155 and 156 of Executive Order No. 94 and on recommendation of the Director of Commerce, the following rules and regulations on standardization and inspection of hemp squares and hemp rugs and Canton squares and Canton rugs, are hereby promulgated, for the information and guidance of all concerned:

General Specifications

Rule 1. For the purposes hereof, the following general specifications are hereby provided for hemp and Canton ply, hemp or Canton braid, and hemp or Canton square.

The word "hemp" refers exclusively to the fibers of the *Musa textilis*.

"Canton" is the name given to "fibers of the true Canton plant, amokid, and all other fibers derived from other plants of the Musa specie except Pacol and banana.

A hemp or Canton *ply* consist of approximately 68 hemp or Canton fibers assembled to form a single strand.

A hemp or Canton *braid* consists of 3 plies entwined into a single plait 9/16" wide and 3/16" thick.

A hemp or Canton *square* is a piece of article made of hemp or Canton braids, 12" × 12" × 9/16". To make a square, a long piece of hemp or Canton braid is taken and, with its thickness side up, bent one inch from its end. This operation is repeated until there is produced a surface one inch square. This is called the *center*, and the folds composing it are sewed fast with a 2-ply, loose-twist hemp twine. The braid is wound around this center, placed as usual, with the thickness side up, and the folds sewed securely as the winding progresses, until there is formed a square 12" × 12" × 9/16".

If so agreed upon between the buyer and the seller, the center may be allowed to deviate from the usual one-inch square measurement.

The term "Square" in its broadest sense is also used to designate a unit piece other than 12" × 12" × 9/16" provided that the piece is square or rectangular in shape.

Rule 2. For the domestic and the foreign trade, there are hereby established four classes of hemp squares designated by the letters A, B, C, and D, each class having its trade-name indicating the grades of hemp fibers in the making of the squares.

To harmonize with present practices now used in the trade, these fibers are arbitrarily divided into four groups, such that fibers of grades AB-S_3 shall be called White Natural; those of grades I–H, Light Natural No. 1; those of J_2—L_2 Light Natural No. 2; and those of grades M_1–DM, Dark Natural.

TABLE I

A	White Natural	AB–CD–E–F–S_2–S_3
B	Light Natural No. 1	I–J_1–M–H
C	Light Natural No. 2	J_2–K–L_1–L_2
D	Dark Natural	M–M–DL–DM

Rule 3. Each of the classes of hemp squares established above is divided into three grades, and each grade is designated with a Roman numeral and provided with specifications as to grades of fibers utilized, and as to workmanship for plain squares, as set forth in the following table:

TABLE II

Class	Grade	Fibers used	WORKMANSHIP: Plain squares	WORKMANSHIP: Colored squares	Requirements common to all classes and grade
A	I	AB–CD	The center is tightly wound and securely sewed.	In case colored checkers are desired, use these color specifications:	1. The stitching should be done one inch apart.
	II	E–F			2. The ends must be securely fastened to prevent raveling.
	III	S_2–S_3	The braids are 6/16″ wide, and 2/16″ thick, flat, and uniform in width throughout. They are straight and firm and sewed closely enough to avoid gaps and open spaces.	1. Fast dyes	3. There must be no sagging at the corners or along the edges of the squares.
B	I	I–		2. Piece-dyeing and or fiber dyeing.	4. The center should be one inch square, or any other inch square, or any other form and size as per standing buyer-seller agreements.
	II	J_1–G			5. The twine for use in stitching should be a 2-ply twist.
	III	H–	The distance from the edge of the center to the edge of the square is uniform on all sides.	3. Even, uniform tinting.	6. There should be no variance from the length, 12″ 18″ etc, or whatever may be the standard length of the sides of square in question
C	I	J_2–		Not recommended for dyeing.	7. Unslightly and loose fibers should be trimmed off well.
	II	K–			8. The squares must be free from discoloration or from molds, mildew and other fungus growths, or any foreign stains that may mar the general surface of the squares.
	III	L_1–L_2			
D	I	M_1–			
	II	M_2–			
	III	DL–DM			

Rule 4. Hemp squares of dimensions other than 12″ × 12″ × 9/16″ either to be utilized as loose squares, or to be made into rugs shall be made provided that such sizes are ordered for by the importer, and provided further that they are classified and graded in accordance with the specifications for classifying and grading hemp squares as prescribed in columns 1–6, Table II. These squares do not make a separate standard, but are considered identical with any one of the established standards under Rule (*a*), to which they correspond in make.

Rule 5. Hemp squares except Class D squares, qualifying for any one of the established standards,

as shown in Columns 1–3 in Table II, but failing to satisfy the specifications for workmanship as prescribed in Columns 4 and 5, in Table II due to the presence of gaps in the squares 1/16 in. or more in width, or if colored, to smears more or less marked, and/or further, failing to meet any one or all of the requirements common to all grades as shown in column 6, Table II, shall be demoted to the next lower grade within the class to which the squares belong. There shall be no demotions from one class to another.

Rule 6. Demotions from Grade III of any class except Class D, shall be considered Off-grade standard for that particular class; but this Off-grade standard shall be issued certificates of inspection and standard.

Rule 7. Class D squares, irregards of grade, qualifying for any one of the established standards as shown in Columns 1–3 in Table II, but which fail to meet the specifications for workmanship as set up in Columns 4 and 5, in Table II due to the presence of gaps, in the squares 1/16" or more in width, or if colored, have smears and/or further, failing to come up to conform with any one or all of the requirements common to all grades as shown in Columns 6, Table II, shall be declared sub-standard and shall not be issued certificates of inspection and standard unless somcone has expressed his desire to get them as they are.

Classes of Rugs made of Hemp squares

Rule 8. Rugs made of hemp squares are hereby grouped into four classes each represented by a letter combination symbol. The primary basis of classification is the class of the squares used. Each class of rugs, aside from specifying the class of squares used in making rugs, also gives the descriptive trade name given to the fibers of which the squares are made. Thus:

TABLE III

Class	Class of Squares Used
HA	Class A, or White Natural
RB	Class B, Light Natural No. 1
RC	Class C, Light Natural No. 2
RD	Class D, or Dark Natural

Rule 9. For each of the four classes of hemp rugs established above, there shall be three grades, each grade with its Roman number symbol, and with specifications for squares used, for plain-checkered and/or colored-checkered effects; and each rug shall satisfy the requirements common to all grades, thus: (See Table IV)

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Rule 10. When squares of different grades and dimensions, of the same or different classes are used in the making of rugs to produce plain-checkered effects, or to bring out color contrasts in plain natural checkers, as dictated in Table IV, Columns 1 to 4, the class and the grade of the resulting rug shall be determined by the class and the grade of the squares belonging to the higher grade, provided that the number of the squares of higher grade shall not be less than those of the lower grade; and provided further, that all the squares concerned satisfy the requirements common to all classes and grades as called for in Table II, Column 6, and lastly, provided that the resulting rug meets all the requirements common to all classes and grades, as set in Table IV, Column 6.

Rule 11. Plain-checkered and/or colored-checkered combinations involving squares and vividly contrasting colors, and belonging to different classes and grades and/or dimensions other than those combinations described in Table IV, may be used in the making of rugs, provided that such combinations are expressedly ordered for by the importer, and provided further, that the rugs so constructed are classified and graded in full consonance with the context of Rule 10.

Rule 12. Rugs made of hemp squares except D, qualifying for any one of the established standards as defined in Columns 1–3 Table IV, but which fail to satisfy, any one or all of the requirements for all grades shall be demoted to the next lower grade in the same class to which the rugs originaly belong. There shall be no demotions from one class to another class.

Rule 13. Demotions from Grade III of any class, except Class D, shall be considered Off-Grade standard for that class, but this Off-grade Standard shall be issued certificates of inspection and standard, and hence may be exported.

Rule 14. Class D rugs irregards of grade, failing to satisfy any one or all the requirements common for all grades as called for in Column 6, Table IV, shall be considered sub-standard, and hence shall not be issued certificates of inspection and standard unless someone has expressed his desire to get them as they are.

Classes of Rugs made of Hemp Braids

Rule 15. Rugs made of hemp braids are hereby divided into four classes, each represented by a symbol; and each class followed with the letter designation and the trade-name by which the fibers used in making the braids are referred to in the trade. Thus:

TABLE IV

Class	Grade	Class and grade of squares used	COMBINATIONS: Plain checkers	COMBINATIONS: Colored checkers	Requirements common to all classes and grades
RA	I	A–I	A–I entirely A–I and A–II for slight contrast A–I and A–III for a stronger	In case colored checkers are desired, use colored squares correspondingly as described in Table II, and with the same specifications, Thus: 1. Fast dyes 2. Piece-dyeing and-or fiber dyeing. 3. Even, uniform tinting.	1. All the squares used in the rugs shall be made in conformity with provisions of Table II. 2. The rugs must lie flat on the floor. 3. Loose, fibers, knots or hanging fibers should be trimmed off. 4. The squares must be fitted in such a way as to give the desired patter effects and color contrasts. 5. The stitching must not be less than one inch apart and the twines used should be 3-ply light-twist. The stitches are sewed tightly, but there should be no undue stretching that may destroy the smoothness of the surface. There should be no gaps within the rug. There must be no sagging at the corners, or on the sides of the rugs. 6. The rugs must be free from discoloration, or from molds, mildews and other fungus growths, or any foreign stains that may mar the general surface of the rugs.
	II	A–II	A–II entirely A–II and A–III A–II and either B–I or B–II		
	III	A–III	A–III entirely A–III and any desired shade of Light Natural		
RB	I	B–I	B–I entirely B–I and B–II or B–III		
	II	B–II	B–II entirely B–II and B–III		
	III	B–III	B–III entirely B–III and any desired shade of Dark Natural		
RC	I	C–I	C–I entirely C–I and C–II C–I and C–III		
	II	C–II	C–II entirely C–II and C–III or C–II and D–I		
	III	C–III	C–III entirely		
RD	I	D–I	D–I entirely		
	II	D–II	D–II entirely		
	III	D–III	D–III entirely	Not recommended for dyeing	

TABLE V

Class (1)	Fibers Letter Disignation (2)	Used Trade Name (3)
Br–A	AB, CD, E, F, S_2S_2	White Natural
Br–B	I, J, G, H	Light Natural No. 1
Br–C	J_2, K, L_1, L_2	Light Natural No. 2
Br–D	M_1, M_2, DL, DM	Dark Natural

Rule 16. Each of the four classes of rugs made of hemp braids shall be divided into three grades, each grade being provided with Roman numerals symbol, and accompanied with the trade name of the specified fibers used; with specifications for workmanship, and coloring, if this is desired; and with special requirements common to all grades, thus:

TABLE VI

Class	Grade	Fibers used	Workmanship	Coloring	Requirements common to all class and g rades
Br–A	I	AB–CD	Braids: 6/16" × 2/16", must be even, uniform, and flat throughout. If the loose weave is used, the meshes formed should be uniform in size, and the braids should be sewed firmly and securely to prevent them from spreading out. If the close weave is used these weave may be employed: Plain weave, twill or any other patern. In any case the patterns desired are faithfully represented.	If colored combinations are used, these color descriptions shall hold in each grade as: 1. Fast dyes 2. Fiber dyeing 3. Piece-dyeing 4. Even tinting. Note: To apply to all Classes except Br-D I, II, III.	1. The rugs must lie fiat on the floor. 2. The stitches must not be less than 1" apart and the twines used should be 3-plytight twist. 3. The braids should be sewed tightly but there should be no undue stretching that may destroy the smoothness of the surface and thus produce irregular meshes. 4. The braids must be free from discoloration, or from molds, mildews and and other fungus growths, or any foreign stains that may mar the general surface of the rug.
	II	E–F			
	III	S_1–S_2			
Br-B	I	–I			
	II	J_1–G			
	III	II–			
Br–C	I	J–			
	II	K–			
	III	L_1–L_2			
Br–D	I	M_1			
	II	M_2			
	III	DL–DM			

Rule 17. Rugs made of hemp braids, except Class D, qualifying for any one of the established standards as shown in columns 1–3 Table IV, but failing to meet specifications prescribed for all grades as described in columns 4 and 5 in Table V., and further, failing to satisfy any or all of the requirements common to all grades as shown in Column 6, Table VI, shall be demoted to the next lower grade in the same class to which the rugs originally belong. There shall be no demotions from one class to another..

Rule 18. Demotions from Grade III of any class of hemp rugs made of braids, except D, shall be considered Off–Grade for that particular class, but this standard shall be issued certificates of inspection and standard.

Rule 19. Class D rugs made of braids, irregards of grades to which they might have qualified if they had not failed to meet the specifications as set up in Columns 4 and 5, Table VI, and/or any one or all the requirements common to all grades as listed in Column 6, Table VI, shall on such failings be considered sub-standard, and they shall not be issued certificates of inspection and standard, unless a buyer has expressed his desire to get them as they are.

CANTON SQUARES

Classes of Canton Squares

Rule 20. If so desired by the producers and if so ordered for by the buyer, Canton fibers may be used in the making of squares, in which case the following classification of Canton squares shall be used. There shall be three classes of Canton squares represented by the symbols CA, CB, and CC, respectively, depending on the kind of Canton fibers used in the making of the squares. There are also Trade Names to correspond to each class as "Light Natural No. 1" for the CA Class; "Light Natural No. 2" for the CB Class; and "Dark Natural" for the CC Class, thus:

TABLE VII

Class	Trade name	Canton fiber used	Description
CA	Light Natural No. 1	Caton One	Canton fibers equivalent in color and texture to hemp fibers of grade J_2 and up to grade J_1.
CB	Light Natural No. 2	Canton Two	Canton fibers equivalent in color and texture to hemp fibers in grade K_1, L_2, and L_2.
CC	Dark Natural	Canton three	Canton fibers equivalent in color and texture to hemp fibers of grade M_1, M_2, DL and DM.

Rule 21. Each class of Canton squares shall be divided into three grades depending on the specific kind of Canton fibers utilized, and the workmanship, used in the making of the squares. As regards specifications for materials, the following table will illustrate:

TABLE VII

Class (1)	Grade (2)	Fibers used and their description (3)
CA	I	Canton fibers equivalent in color and texture to hemp fibers of grade J_1
	II	Canton fibers equivalent in color and texture to hemp fibers of grades C and H.
	III	Canton fibers equivalent in color and texture to hemp fibers of grade J_2
CB	1	Canton fibers equivalent in color and texture to hemp fibers of grade K
	II	Canton fibers equivalent in color and texture to hemp fibers of grade L_1
	III	Canton fibers equivalent in color and texture to hemp fibers of grade L_2
CC	I	Canton fibers equivalent in color and texture to hemp fibers of grade M_1
	II	Canton fibers equivalent in color and texture to hemp fibers of Grade M_2.
	III	Canton fibers equivalent in color and texture to hemp fibers of grades DL and DM.

Rule 22. The same provisions for workmanship in both plain and colored squares, as applied to hemp squares, and laid out in columns 4 and 5 in Table II of this Order, shall likewise apply to the workmanship in Canton squares. The requirements common to all classes and grades listed in Column 6, Table II shall be complied with fully by Canton Squares. The provision exempting Class D hemp squares from dyeing as shown in column 5, Table II, shall apply to CC squares, Grades I to III.

Rule 23. Canton squares of dimensions other than 12" × 12" × 9/16" either to be utilized as loose squares, or to be made into rugs, shall be made provided that such sizes are ordered for by the importers, and provided, further, that the squares are classified in conformity with the specifications for classifying Canton squares provided for in Table VII; and graded as per provisions under Table VIII, and Rule 22; and in case the squares are made into rugs, same must follow materials and combinations requirements as called for in Columns 3 to 5, Table X. The rugs thus formed shall lastly be governed by rules 27, 28, and 29 of this Order.

Squares and rugs embraced within the content of this Rule do not make a separate standard but are considered identical with any one of the established standards of Canton squares or Canton rugs under Rule 30, or 30 (*d*), to which they correspond in make.

Rule 24, CA, CB, and CC Canton squares qualifying for any grade as set up in Table VIII, but which fail to satisfy the specifications for workmanship as prescribed in columns 4 and 5, Table II, due to the presence of gaps within the squares 1/6" or more in width, or if colored, to smears more or less marked, and/or further, failing to meet any one or all the requirements common to all grades as listed in column 6, Table II, shall be demoted to the next lower grade within the class. There shall be no demotions from one class to another. Demotions from grade III, Class CA and Class CB, shall be considered off-grade, and shall be issued certificates of inspection and standard; but those of Class CC shall be sub-standard and shall not be issued certificates of inspection and standards unless someone has expressed his desire to get them as they are.

Classes of Rugs made of Canton Squares

Rule 25. There shall be three classes of rugs made of Canton Squares to be designated RCA, RCB, and RCC, respectively, depending on the kind of squares used in the making of the rugs. The following table will emphasize the classification:

TABLE IX

Class (1)	Class of Squares Used (2)
RCA	CA Squares
RCB	CB Squares
RCC	CC Squares

Rule 26. Each class of Canton rugs shall be divided into three grades, depending on the specific of squares used, and the workmanship involved.

A tabular representation of these requirements will be furnished by the following:

TABLE X

Class	Grade	Class and Grade of Canton Squares used	Plain checkers	Colored checkers
RCA	I	CA–I	CA–I entirely CA–I and CA–II for slight contrast CA–I and CA–III for greater contrast	In case colored checkers are desired use colored squares correspondingly as described in Table II, and with the same specifications, thus:
	II	CA–II	CA–II entirely CA–II and CA–III	1. Fast dyes 2. Piece dyeing and=or fiber dyeing.
	III	CA–III	CA–III and entirely CA–III and CB–I	3. Even, uniform tinting.
RCB	I	CB–I	CB–I entirely CB–I and CB–II	Note To apply only to: RCA–Grades I, II, and III RCB–Grades I, II, and III
	II	CB–II	CB–II entirely CB–II and CB–III	
	III	CB–III	CB–III entirely CB–III and CC–I	
RCC	I	CC–I	CC–I entirely	Not recommended for dyeing
	II	CC–II	CC–II entirely	
	III	CC–III	CC–III entirely	

Rule 27. All the requirements common to all classes and grades of hemp rugs made of squares, Column 6, Table IV, shall be made applicable to all classes and grades of Canton Rugs.

Rule 28. Rules 10 and 11 of this order shall be complied with fully by Canton rugs whenever combinations are made to produce desired plain-checkered and/or colored-checkered effects, otherwise, Table X shall be used.

Rule 29. RCA, RCB and RCC rugs qualifying for any grade as illustrated in Table X, columns 1–5, but which fail to satisfy any one or all of the requirements for all grades, column 6, Table IV, shall be demoted to the next lower grade within the class. There shall be no demotions from one class to another. Demotions from Grade III, class RCA and Class RCB shall be considered Off-Grade, but these grades may be issued certificates of inspection and standard. Demotions from any grade in Class RCC shall be considered Sub-Standard, and hence, shall be issued certificates of inspection and standard, unless a buyer has expressed his desire to get them as they are.

Standards of Hemp squares and Hemp rugs and Canton squares and Canton rugs

Rule 30. In referring to the standard of hemp and Canton squares and of hemp and Canton rugs, the class and the grade thereof shall be stated together.

Rugs made in round, oval, or any shape other than square or rectangular shall be classified and graded in the same way that rugs made in squares are classified and graded. The same specifications on coloring shall be required to rugs made in round, oval, or any shape other than square or rectangular.

For clarity and ease of reference, the following table shall give the different standards of hemp squares and hemp rugs, and Canton squares and Canton rugs, 67 in all, as established in the Commerce Administrative Order, thus:

(*a*) *Standards of Hemp Squares for which Certificates of Inspection and Standard May be Issued.*

Standard	Number of Standard Established
A–I, A–II, A–III, A–Off-Grade	4
B–I, B–II, B–III, B–Off-Grade	4
C–I, C–II, C–III, C–Off-Grade	4
D–I, D–II, D–III, Conditional (See Rule 7)	3
Total	15

(*b*) *Standard of Canton Squares for which Certificates of Inspection and Standard may be Issued.*

Standard	Number of Standard Established
CA–I, CA–II, CA–III, Off-Grade	4
CB–I, CB–II, CB–III, Off-Grade	4
CC–I, CC–II, C–III, (Conditional, See Rule 24)	3
Total	11

(*c*) *Standard of Rugs made of Hemp squares for which Certificates of Inspections and Standard may be issued.*

Standard	Number of Standard Established
RA–I, RA–II, RA–III, RA–Off-Grade	4
RB–I, RB–II, RB–III, RB–Off-Grade	4
RC–I, RC–II, RC–III, RC–Off-Grade	4
RD–I, RD–II, RD–III, (Conditional, See Rule 14)	3
Total	15

(*d*) *Standards of rugs made of Canton squares for which Certificates of Inspections and Standard may be issued.*

Standard	Number of Standard Established
RCA–I, RCA–II, RCA–III, Off-Grade	4
RCB–I, RCB–II, RCB–III, Off-Grade	4
RCC–I, RCC–II, RCC–III, Off-Grade (Conditional, See Rule 29)	3
Total	11

(*e*) *Standard of Rugs made of Hemp braids for which certificates of inspection and Standard may be issued.*

Standard	Number of Standard Established
Br–A–I, Br–A–II, Br–A–III, Br–A–Off-Grade	4
Br–B–I, Br–B–II, Br–B–III, Br–B–Off-Grade	4
Br–C–I, Br–C–II, Br–C–III, Br–C–Off-Grade	4
Br–D–I, Br–D–II, Br–D–III, (Conditional, See Rule 19)	3
Total	15

Filling out Official forms and Allied papers

Rule 31. In filling out trade or official forms like purchase orders, sales invoice, bill of lading, export entry declarations, applications for export permit and license, applications for government inspection, certificates of inspection and standard, other allied papers, and blanks for labeling purposes as called for in Rule 34, any one of the standards as established and laid out in the table above, under Rule 30, shall be used preceded by the name "Philippines," over its abbreviation "Phil.," thus:

Phil. RA–I, meaning Philippine Rugs made of Hemp Squares, Class A–Grade I.

Phil. RCB–I, meaning Philippine Rugs made of Canton Squares, Class B, Grade I.

Phil. Br–A–Off–Grade, meaning Philippine Rugs made of Hemp Braids, Class A, Off–Grade.

Phil. CA–I, meaning Philippine Squares made of Canton, Class A, Grade I.

In the case of rugs made of round-oval, or any shape other than square or rectangular, the word "round", "oval", or whatever descriptive term may correctly state the shape, should be used after the official standards of rugs made of squares, as shown in Rule 30, (*c*) and (*d*).

Phil. RA–I–Round, meaning Philippine Rugs, Class A, Grade I, in round shape, (See Rule 30, second paragraph).

Rule 32. Upon receipt of written requests for inspection, inspectors of the Division of Standards, duly assigned by the Director of Commerce, shall inspect, sample, classify and grade hemp squares and Canton Squares and/or hemp rugs and Canton rugs intended for export. Such requests should be accomplished by the exporters on forms especially provided for the purpose and obtainable free of charge from the Division of Standards, or from provincial inspectors at ports of entries of the Philippines. Requests for inspection may be made any time there are hemp squares and/or hemp rugs and/or Canton Squares and/or Canton rugs to be packed or rolled.

Sampling, classification, and grading of hemp square and hemp rugs and Canton squares and Canton rugs.

Rule 33. Inspection, classification, grading, and sampling of hemp squares and hemp rugs and Canton squares and Canton rugs, shall be done at the exporter's expense, but under the inspector's direction and supervision in the factories or the exporter's premises, before the articles are packed.

Sampling hemp squares and Canton squares.—When hemp squares or Canton squares are exported as loose squares, the inspector shall draw one representative sample for every one thousand loose squares, or fraction thereof.

Sampling hemp rugs and Canton rugs.—In the case of hemp squares or Canton squares of one class and grade, and sewed in bales of 9' x 36' or any other size agreed upon between the buyer and the seller, the inspector shall get one representative loose sample which is identical with the squares comprising each bale. There shall be drawn one loose square sample for every bale inspected, irrespective of the size of the rugs, or the number of squares used in the making of same.

For every hemp rugs or Canton done in plain-checkered and/or colored-checkered combinations, there shall be drawn one loose square representative of each group of squares used in the making of the rugs irrespective of the size or sizes of the squares used, or the number of the squares utilized in the making of the rug.

Sampling hemp rugs made of braids, or hemp and/or Canton rugs made in round, oval, or any shape other than square or rectangular, shall be based on this proportion:

For every lot having an approximate net weight of 300,000 grams or fraction thereof, there shall be taken a corresponding sample which is any unit piece that may be weighing more, but not less than 900 grams, or in the absence of any such unit piece, any number of pieces, the aggregate sum of whose weights shall answer the requirements as called for herein.

The samples drawn in all instances, that is, the squares and/or the sample or samples as called for in the preceding paragraphs, shall be kept in the Division of Standards, or in the office of the provincial inspector until negotiations between the buyer and the seller will have been concluded, or in the absence of any proof of the conclusion of such negotiation, not less than sixty days from the date of inspection, after which time, exporter may get his samples back. Samples not taken back within thirty (30) days after the said 60 days may be sold by the Director of Commerce, who may use the proceeds thereof for the improvement of the inspection service of the Division of Standards.

TABLE XII

A. *Hemp Squares*

QUANTITY (1)	Class (2)	RATES Grade I (3)	Grade II (4)	Grade III (5)	Off-grade (6)
For every square 12"x 12"x 6/16" or its equivalent or fraction thereof.	A	₱.0015	₱.0025	₱.005	₱.01
	B	.0015	.0025	.005	.02
	C	.0015	.0025	.005	.03
	D	.0015	.0025	.005	.05

B. *Canton Squares*

QUANTITY (1)	Class (2)	RATES Grade I (3)	Grade II (4)	Grade III (5)	Off-grade (6)
For every square 12" x12"x 6/16", or its equivalent or fraction thereof.	A	₱.0025	₱.005	₱.0075	₱.02
	B	.0025	.005	.0075	.03
	C	.0025	.005	.0075	.05

C. *Rugs Made of Canton Squares*

QUANTITY (1)	Class (2)	RATES Grade I (3)	Grade II (4)	Grade III (5)	Off-grade (6)
The same as in Table XII–B	RCA	₱.0025	₱.005	₱.0075	₱.02
	RCB	.0025	.005	.0075	.03
	RCC	.0025	.005	.0075	.05

D. *Rugs Made of Hemp Squares*

QUANTITY (1)	Class (2)	RATES Grade I (3)	Grade II (4)	Grade III (5)	Off-grade (6)
For every surface area of 144 sq. in., based on size 12″x 12″x 6/16″ squares or fraction thereof.	A	₱.0015	₱.0025	₱.005	₱.01
	B	.0015	.0025	.005	.02
	C	.0015	.0025	.005	.03
	D	.0015	.0025	.005	.05

E. *Rugs Made of Hemp Braids and Rugs Named in Rule 38 below.*

QUANTITY (1)	Class (2)	RATES Grade I (3)	Grade II (4)	Grade III (5)	Off-grade (6)
For every 300 grams or fraction thereof.	A	₱.01	₱.02	₱.03	₱.04
	B	.01	.02	.03	.04
	C	.01	.02	.03	.04
	D	.01	.02	.03	.05

Rule 34. Hemp squares and Canton squares, hemp rugs and Canton rugs intended for the export trade shall be wrapped carefully in burlap matting which is sewed closely with hemp twines, or in any other strong and clean wrapping material approximately fastened, or pasted, or tied to insure adequate protection to the article within. No certificate of inspection and standard shall be issued to any lot, not packed in accordance with this specification, nor to any lot not provided with labels showing the name of the manufacturer, the business name, if there be any, and a statement guaranteeing the class and grade to conform with any of the standards established in this Commerce Administrative Order.

Certificate of Inspection and Standard

Rule 35. A certificate of inspection and standard shall be issued for every lot of hemp or Canton squares, or hemp or Canton rugs inspected if the standard thereof as determined by the inspector conforms to any of the standards established in Rule 30, *a*, *b*, *c*, *d* and *e*. A certificate of inspection and standard shall not be issued to any sub-standard lot unless someone has expressed his desire to get such goods. (Please see Rules 7, 14, 19, 24 and 29). A copy of such certificate shall be attached to, or a replica thereof stamped on the corresponding shipping papers or documents or on each package or bundle, or on the goods classified and graded for export.

In Manila, the certificate of inspection and standard shall be signed by the Director of Commerce, or in his absence, by the Chief, Division of Standards, "For and in the absence of the Director of Commerce," and outside Manila, by the inspector, "For the Director of Commerce."

Rule 36. The standard certified in a certificate of inspection and standard shall be final except on manifest error, omission or commission of the inspector alleged in a written statement under oath of the exporter or any other interested party, filed with the Secretary of Commerce and Industry within five days after the issuance of the certificate and only after the Director of Commerce has refused to change the grade or standard certified. The Secretary will then order a review of the case, or a reinspection of the products involved, and render decision thereon.

Fees and Charges

Rule 37. On receipt of a written request for inspection, an inspection fee shall be charged and collected at rates fixed in the sliding scale provided hereunder, where lower rates are charged for higher grades. Reimbursement of one-half of the inspection fee shall be made to the exporter on failure to ship the goods inspected.

The following fees shall be charged for the services of inspection based on the quantity or weight of the goods.

Rule 38. In the case of rugs made in round, oval, or any shape other than square or rectangular, or are made of braids, the weight of the rugs shall be taken, using 300 grams as equivalent to one square 12" x 12" x 6/16". This schedule of equivalent shall be used in collecting inspection fees.

Rule 39. For each certificate of inspection and standard, a fee of ₱5.00 shall be charged, not including the cost of one-thirty-centavo documentary stamp to be affixed to the certificate.

Special Provisions

Rule 40. If any lot of hemp squares and hemp rugs, and/or Canton Squares and Canton rugs for which an application for inspection has been received, is located outside Manila or outside the official station of any provincial inspector, his traveling expenses and per diems, or, instead of per diems, the actual cost of his board and lodging, shall be paid for by the exporter or shipper or the party requesting inspection, at the rate not exceeding those allowed by the government for its officials and employees.

Rule 41. To facilitate the classification, grading, and sampling of hemp squares and hemp rugs and/or Canton squares and Canton rugs for export, employees of exporters, dealers, or manufacturers, on proper satisfactory showing made to the Director of Commerce of their knowledge of hemp squares and hemp rugs and/or Canton squares and Canton rugs, and of the rules and regulations provided in this Commerce Administrative Order, and upon payment of an annual fee of ₱10 for each employee, and on filing cash, surety real esate or personal bond in an amount not less than ₱500 may be authorized by the Director to do the work of classifying, grading, and sampling under the supervision of an inspector of the Bureau of Commerce. Such bond shall be so conditioned as to indemnify any importer of any looses he may suffer due to failure, neglect or dishonesty of the employee in the classification, grading, and sampling of the hemp squares and hemp rugs and/or Canton squares and Canton rugs exported. Private employees thus authorized to classify, grade, and sample, shall not do the certification work.

Rule 42. Duly assigned inspectors of the Bureau of Commerce shall be entitled to claim from any exporter, dealer, manufacturer, or any other interested party overtime pay at not less than ₱1.20 per hour for work done outside official hours or during Sundays and official holidays.

Final Provisions

Rule 43. This Commerce Administrative Order shall take effect on date of approval.

Done in the City of Manila, this 19th day of January, in the year of Our Lord, nineteen hundred and fifty-four and of the Independence of the Philippines, the eighth.

OSCAR LEDESMA
Secretary of Commerce and Industry

Recommended, September 18, 1953

BONIFACIO A. QUIAOIT
Director of Commerce

Approved; March 12, 1954.

By authority of the President:

FRED RUIZ CASTRO
Executive Secretary

Civil Aeronautics Administration

ADMINISTRATIVE ORDER No. 28

Pursuant to the provisions of paragraph 9 of section 32, Republic Act No. 776 approved June 20, 1952, the following Communication Codes and Abbreviations are hereby promulgated for the observance of all personnel concerned.

This Administrative Order shall be known as Civil Air Regulations Part 10–C, governing Communication Codes and Abbreviations for Aeronautical Telecommunications to be used in conjunction with Civil Air Regulations Part 10–B and any reference to said title shall mean as referring to this Administrative Order.

PART 10–C—CODES AND ABBREVIATIONS

CHAPTER 1.—GENERAL

Standards applicable to all codes and abbreviations in this Part.

1.1 The codes and abbreviations herein shall be used in the aeronautical telecommunication service whenever they are appropriate and their use will shorten or otherwise facilitate communication.

1.2 When used in the aeronautical telecommunication service, all signals, signs or abbreviations set forth in this Part shall have only the meanings assigned to them herein.

CHAPTER 2.—Q CODE

INTRODUCTION

The Q Code comprises three sections:

(*a*) Q signals of the Aeronautical Code, selected from the series QAA to QNZ inclusive;

(*b*) Q signals of the Maritime Services Code, selected from the series QOA to QQZ inclusive;

(*c*) Q signals for use in all services, selected from the series QRA to QUZ inclusive.

The meanings of the Aeronautical Code signals are listed in this chapter. The meanings assigned

to signals in the QRA to QUZ series were established by the International Telecommunications Union (ITU) [Atlantic City, 1947] and have been reproduced in this chapter. The Maritime Service code is not reproduced herein since it is intended for use only between stations of the Maritima Service.

Since, in general, only stations of the Aeronautical Service will have available copies of the Aeronautical Code it should not be used in communications with stations of other services unless it is known that the station concerned is familiar with the code.

2.1—APPLICATION

Q signals herein shall have the meanings assigned to them provided that these meanings may be amplified or completed by the addition of appropriate abbreviations, signals call signs, place names, figures or numbers.

2.1.1 The information necessary to complete a signification, as indicated by a blank space, shall be given except when:

(*a*) The blank spaces are enclosed within parenthesis to indicate that their completion is optional.

NOTE.—The following examples illustrate the application of this procedure:

(i) QAF RNG
Meaning "I am over the radio range"

(ii) QAF RNG 1603
Meaning "I was over the radio range at 1603 hours"

(iii) QAF RNG 1603 9000 FT MSL
Meaning "I was over the radio range at 1603 hours at 9000 feet indicated height above mean sea level"

NOTE.—In the above examples, the meaning assigned to QAF has been amplified by the use of the optional sections of the meaning [(st ... hours)] [at ... (figures and units) height above ... (datum)] enclosed within parenthesis.

(iv) QAB DZPDU DUMA VSSK 7000 FT STD $\overline{\text{IMI}}$
Meaning "May I have clearance for DZPDU from Manila to Hongkong at 7000 feet height above 29.92 inches [1013.2 millibars] level"

NOTE.—In the above example the meaning assigned to signal QAB has been amplified by the use of that optional section of the meaning [(for ...)] enclosed within parenthesis.

(*b*) An alternative meaning shown in parenthesis is selected and the blank space in this alternative meaning is completed.

NOTE.—The following examples illustrate the application of this procedure:

(i) QAP 6500 IMI
Meaning "Shall I listen for you on 6500 kilocycles?"

(ii) QAP 11 MC
Meaning "Listen for me on 11 megacycles"

NOTE.—In example (ii) the alternative meaning has been used.

2.1.2 The information used to complete the blank spaces shall be sent immediately after the Q signal in the sequency shown in the signification.

2.1.3 Expressions or words in parenthesis which do not include blank spaces have the following significance:

(*a*) When following a blank space,

NOTE.—The following examples illustrate the application of this procedure:

(i) "... (figures and units)"
(ii) "... (position or zone)"
(iii) "... (place)"

The explanation of information to be used in filling the preceding blank;

(*b*) When following a word or expression,

NOTE.—The following examples illustrate the application of this procedure:

(i) "I am (was)"
(ii) I am ascending (descending)"
(iii) "accept control (or responsibility)"

an alternative to the word or expression.

2.1.4 Q signals shall be read as a question when followed by a note of interrogation signal ($\overline{\text{IMI}}$). When a signal is used as a question and is followed by additional or complementary information, the note of interrogation shall follow this information.

NOTE.—The following example illustrates the application of this procedure:

QAP 6500 $\overline{\text{IMI}}$
Meaning "Shall I listen for you on 6500 kilocycles?"

2.1.5 Q signals that are capable of being given an affirmative or negative sense shall be read in the appropriate sense when immediately followed by the signal "C" in the case of the affirmative or the signal "NO" in the case of the negative.

NOTE.—The following example illustrates the application of this procedure.

QAK NO
Meaning "There is no risk of collision."

NOTE.—The use of signal "NO" for the purpose described in 2.1.5 is applicable only to communications in the aeronautical service. In communica-

tions with stations of other services the signal "N" is to be used instead of "NO".

2.1.6 Q signals used in the aeronautical service that are capable of being given the sense of an order shall be read in this sense when immediately followed by the signal ORD.

NOTE.—The following example illustrates the application of this procedure:

QAG CYUL RNG 1650 ORD
Meaning "Arrange your flight so as to arrive over Montreal radio range at 1650 hours."

2.1.7 Q signals with numbered alternative significations shall be followed by the appropriate figure to indicate the exact meaning intended. This figure shall be sent immediately following the Q signal.

NOTE.—The following example illustrates the application of this procedure:

QHE 3
Meaning "I am on base leg of approach."

2.1.8 All times shall be given in Greenwich Mean Time (GMT) [See Part III, Paragraph 3.4] unless otherwise indicated in the question or reply.

AERONAUTICAL CODE SIGNALS

Signal	SIGNIFICATION	
	Question or Interrogatory Form	Answer, Information or Advice Form
QAB	May I have clearance (for ...) from ... (place and/or control) to ... (place and/or control) at ... (figures and units) height above ... (datum)?	You are cleared (or ... is cleared) by ... from ... (place and/or control) to ... (place and/or control) at ... (figures and units) height above ... (datum).
QAF	Will you advise me when you are (were) at (over) ... (place)?	I am (was at (over) ... (place) (at ... hours) [at ... (figures and units) height above ... (datum)].
QAG		Arrange your flight in order to arrive over ... (place) at ... hours. or I am arranging my flight in order to arrive over ... (place) at ... hours.
QAH	What is your height above ... (datum)?	I am at ... (figures and units) height above ... (datum). NOTE.—An aircraft is permitted to reply to QAH IMI by using any of the answer forms of signals QBF, QBG, QBH, QBK, QBN or QBP. In such cases the signal QAH is omitted from the reply. or Arrange your flight so as to reach ... (figures and units) height above ... (datum) at ... (hours or place).
QAI	What is the essential traffic? NOTE.—Relates to aircraft and not communication traffic.	The essential traffic is ... NOTE.—Relates to aircraft and not communications traffic.
QAK	Is there any risk of collision?	There is risk of collision. NOTE.—This signal should be followed by appropriate Q signals or ICAO abbreviations giving instructions for avoiding collision.
QAL	Are you going to land at ... (place)? or Has aircraft ... landed at ... (place)? (See also signal QTP.)	I am going to land at ... (place). or (You may) land at ... (place). or Aircraft ... landed at ... (place). (See also signal QTP.)

Signal	SIGNIFICATION	
	Question or Interrogatory Form	Answer, Information or Advice Form
QAM	What is the latest available meteorological observation for ... (place)?	Meteorological observation made at ... (place) at ... hours was as follows ... NOTE.—The information may be given in Q Code form or the AERO form of the International Code. When in Q Code, the information is to be given in the following sequence of Q signal answer (or advice) forms: QAN, QBA, QNY, QBB, QNH and/or QFE and, if necessary, QMU, QNT, QBJ. It is not normally necessary to precede the QAN, QBA, QNY and QBB information by these Q signals but this may be done if considered desirable. When in the AERO form of International Code, the abbreviation AERO is to precede the information.
QAN	What is the surface wind direction and speed at ... (place)?	The surface wind direction and speed at ... (place) at ... hours is ... (direction) ... (speed figures and units). NOTE.—Unless otherwise indicated in the question, answer (or advice), surface wind direction is given in degrees relative to MAGNETIC North.
QAO	What is the wind direction in degrees TRUE and speed at ... (position or zone/s) at each of the ... (figures) ... (units) levels above ... (datum)?	The wind direction and speed at ... (position or zone/s) at the following heights above ... (datum) is: ... (vertical distance in figures and units) ... degrees TRUE ... (speed in figures and units) ... (vertical distance in figures and units) ... degrees TRUE ... (speed in figures and units).
QAP	Shall I listen for you (or for ...) on ... kc/s. (... Mc/s.)? NOTE.—If the frequency is given in megacycles, the abbreviation MC is to be used. (See also signal QSX.)	Listen for me (of for ...) on ... kc/s. (... Mc/s.). NOTE.—If the frequency is given in megacycles, the abbreviation MC is to be used. (See also signal QSX).
QAQ	Am I near a prohibited area (or ... prohibited area)?	You are ... (1) near (2) flying over a prohibited area (or ... prohibited area).
QAR	May I stop listening on the watch frequency for ... minutes?	You may stop listening on the watch frequency for ... minutes.
QAU		I am about to jettision fuel.
QAV	Are you able to home on your DF equipment?	I am homing on my DF equipment on ... station.
QAW		I am about to carry out oversheet procedure.
QAY	Will you advise me when you pass (passed) ... (place) bearing 090 (270) degrees relative to your heading?	I passed ... (place) bearing ... degrees relative to my heading at ... hours.

Signal	SIGNIFICATION	
	Question or Interrogatory Form	Answer, Information or Advice Form
QAZ	Are you experiencing communication difficulties through flying in a storm?	I am experiencing communication difficulties through flying in a storm. NOTE.—Attention is invited to the possible supplementary use of signals QAR, QBE, QCS, QRM, QRN, QRX, QSZ or the signal CL to amplify the meaning associated with signal QAZ.
QBA	What is the horizontal visibility at ... (place)?	The horizontal visibility at ... (place) at ... hours is ... (distance figures and units).
QBB	What is the amount, the type and height above official aerodrome elevation of the cloud base of the significant cloud [at ... (place)]?	The amount, the type and height above official aerodrome elevation of the cloud base of the significant cloud at ... (place) at ... hours is ... eights (... type) at ... (figures and units) height above official aerodrome elevation and ... eights (... type) at ... (figures and units) height above official aerodrome elevation.

NOTE.—The significant cloud layer are:

(i) the lowest layer of cloud below 6000 metres (approx. 20000 feet) covering more than half the sky;

(ii) the lowest layer of cloud, if any, below the layer given in (i) preceding;

(iii) if no layer of cloud below 6000 metres (approx. 20000 feet) covers more than half the sky, the significant cloud layer is the lowest layer of cloud below 6000 metres.

QBC	Report meteorological conditions at observed from your aircraft [at ... (position or zone)] [(at ... hours)].	The meteorological conditions as observed from my aircraft at ... (position or zone) at ... hours at ... (figures and units) height above ... (datum) are ... NOTE.—The information may be given in Pomar or Q Code form. When given in Q Code, the following sequence of Q signal answer (or advice) forms is used: QMX, QNY, QAO, QDF, QML, QFT and QNI.
QBD	How much fuel have you remaining (expressed as hours and/or minutes of consumption)?	Fuel remaining is ... (hours and/or minutes of consumption).
QBE		I am about to wind in my aerial.
QBF	Are you flying in cloud?	I am flying in cloud at ... (figures and units) height above ... (datum) [and I am ascending (descending) to ... (figures and units) height above that datum].
QBG	Are you flying above cloud?	I am flying above cloud and at ... (figures and units) height above ... (datum). or Maintain a vertical distance of ... (figures and units) above cloud, smoke, haze or fog levels.
QBH	Are you flying below cloud?	I am flying below cloud and at ... (figures and units) height above ... (datum). or Maintain a vertical distance of ... (figures and units) below cloud.

Signal	SIGNIFICATION	
	Question or Interrogatory Form	Answer, Information or Advice Form
QBI	Is flight under IFR compulsory at ... (place) [or from ... to ... (place)]?	Flight under IFR is compulsory at ... (place) [or from ... to ... (place)].
QBJ	What is the amount, type and height above ... (datum) of the top of the cloud [at ... (position or zone)]?	At ... hours at ... (position or zone) the top of the cloud is: amount ... eights (... type) at ... (figures and units) height above ... (datum).
QBK	Are you flying with no cloud in your vicinity?	I am flying with no cloud in my vicinity and at ... (figures and units) height above ... (datum).
QBM	Has ... sent any message for me?	Here is the message sent by ... at ... hours.
QBN	Are you flying between two layers of cloud?	I am flying between two layers of cloud and at ... (figures and units) height above ... (datum).
QBO	What is the nearest aerodrome at which flight under VFR is permissible and which would be suitable for my landing?	Flying under VFR is permissible at ... (place) which would be suitable for your landing.
QBP	Are you flying in and out of cloud?	I am flying in and out of cloud and at ... (figures and units) height above ... (datum).
QBS		Ascend (or descend) to ... (figures and units) height above ... (datum) before encountering IFR weather conditions or if visibility falls below ... (figures and units of distance) and advise.
QBT	How far, along the runway, from the approach end, can the observer at the runway threshold see the runway lights which will be in operation for my landing [at ... (place)]?	At ... hours, the observer at the threshold of runway number ... could see the runway lights in operation for your landing [at ... (place)] for a distance of ... (figures and units) from the approach end. NOTE.—If the station inquired of is not equipped to make the special observation requested, the reply to QBTIMI is given by the signal QNO.
QBV	Have you reached the ... (figures and units) height above ... (datum) [or ... (area or place)]?	I have reached the ... (figures and units) height above ... (datum) [or ... (area or place)]. or Report reaching the ... (figures and units) height above ... (datum) [or ... (area or place)].
QBX	Have you left the ... (figures and units) height above ... (datum) [or ... (area or place)]?	I have left the ... (figures and units) height above ... (datum) [or ... (area or place)]. or Report leaving the ... (figures and units) height above ... (datum) [or ... (area or place)].
GBZ	Report your flying conditions in relation to clouds.	The reply to QBZ IMI is given by the appropriate answer form of signals QBF, QBG, QBH, QBK, QBN and QBP.

Signal	SIGNIFICATION	
	Question or Interrogatory Form	Answer, Information or Advice Form
QCA	May I change from ... (figures and units) to ... (figures and units) height above ... (datum)?	You may change from ... (figures and units) to ... (figures and units) height above ... (datum). or I am changing from ... (figures and units) to ... (figures and units) height above ... (datum).
QCB		Delay is being caused by ... (1) your transmitting out of turn. (2) your slowness in answering. (3) lack of your reply to my ...
QCE	When may I expect approach clearance?	Expect approach clearance at ... hours. or No delay expected.
QCF		Delay indefinite. Expect approach clearance not later than ... hours.
QCH	May I taxi to ... (place)?	Cleared to taxi to ... (place). [The place is given in plain language.]
QCI		Make a 360-degree turn immediately (turning to the ...). or I am making a 360-degree turn immediately (turning to the ...).
QCS		My reception on ... frequency has broken down.
QCX	What is your full call sign?	My full call sign is ... or Use your full call sign until further notice.
QCY		I am working on trailing aerial. or Work on trailing aerial.
QDB	Have you sent message ... ...?	I have sent message ... to ...
QDF	What is your D–Value at ... (position)? or What is the D–Value at ... (place or position) (at ... hours) for the ... millibar level?	My D–Value at ... (position) at ... (figures and units) height above the 1013.2 millibars datum is ... D–Value figures and units) ... *(specify plus or minus). or The D–Value at ... (place or position) at ... hours for the ... millibar level is ... (D–Value figures and units) ... (specify plus or minus). * NOTE.—When the true altitude (radio altitude) is higher than the standard pressure altitude PS Plus) is used [conversely MS (Minus) is used].
QDL	Do you intend to ask me for a series of bearings?	I intend to ask you for a series of bearings.
QDM	Will you indicate the MAGNETIC heading for me to steer towards you (or ...) with no wind?	The MAGNETIC heading for you to steer to reach me (or ...) with no wind was ... degrees (at ... hours).
QDP	Will you accept control (or responsibility) of (for) ... now (or at ... hours)?	I will accept control (or responsibility) of (for) ... now (or at ... hours).

Signal	SIGNIFICATION	
	Question or Interrogatory Form	Answer, Information or Advice Form
QDR	What is my MAGNETIC bearing from you (or from ...)?	Your MAGNETIC bearing from me (or from ...) was ... degrees (at ... hours).
QDT	Are you flying in VFR weather conditions?	I am flying in VFR weather conditions. or Fly at all times in VFR weather conditions.
QDU		I am altering my flight plan to VFR.
QDV	Are you flying in a horizontal visibility of less than ... (figures and units)?	I am flying in a horizontal visibility of less than ... (figures and units) at ... (figures and units) height above ... (datum).
QEA	May I cross the runway ahead of me?	You may cross the runway ahead of you.
QEB	May I turn at the intersection?	Taxi as follows at the intersection ... (straight ahead DRT turn left LEFT turn right RITE).
QEC	May I make a 180-degree turn and return down the runway?	You may make a 180-degree turn and return down the runway.
QED	Shall I follow the pilot vehicle?	Follow the pilot vehicle.
QEF	Have I reached my parking area? or Have you reached your parking area?	You have reached your parking area. or I have reached my parking area.
QEG	May I leave the parking area? or Have you left the parking area?	You may leave the parking area. or I have left the parking area.
QEH	May I move to the holding position for runway number ...? or Have you moved to the holding position for runway number ...?	Cleared to the holding position for runway number ... or I have moved to the holding position for runway number ...
QEJ	May I assume position for take-off? or Have you assumed position for take-off?	Cleared to hold at take-off position for runway number ... or I am assuming take-off position for runway number ... and am holding.
QEK	Are you ready for immediate take-off?	I am ready for immediate take-off.
QEL	May I take-off (and make a ... hand turn surface at ... (place)?	You are cleared to take-off (turn as follows after take-off ...).
QEM	What is the condition of the landing surface at ... (place)?	The condition ef the landing surface at ... (place) is ... NOTE.—The information is given by sending appropriate NOTAM Code groups.
QEN	Shall I hold my position?	Hold your position.
QEO	Shall I clear the runway (or landing area)? or Have you cleared the runway (or landing area)?	Clear the runway (or landing area). or I have cleared the runway (or landing area).
QES	Is a right-hand circuit in force at ... (place)?	A right-hand circuit is in force at ... (place).
QFA	What is the meteorological forecast for ... (flight, route, section of route or zone) for the period ... hours until ... hours?	The meteorological forecast for ... (flight, route, section of route or zone) for the period ... hours until ... hours is ... NOTE.—When the forecast is given in Q Code the following sequence of Q signal answer (or advice) forms is to be given: QAO, QMX, QMI, QNY, QBA, QMW, QFT and QNL.

Signal	SIGNIFICATION	
	Question or Interrogatory Form	Answer, Information or Advice Form
QFB		The ... (1) approach (2) runway (3) approach and runway lights are out of order.
QFC	What is the amount, the type and the height above ... (datum) of the base of the cloud at ... (place, position or zone)?	At ... (place, position or zone) the base of the cloud is ... eights ... type at ... (figures and units) height above ... (datum). NOTE.—If several cloud layers or masses are present, the lowest is reported first.
QFD	(1) Is the ... visual beacon [at ... (place)] in operation? (2) Will you switch on the ... visual beacon [at ... (place)]? (3) Will you extinguish the aerodrome visual beacon [at ... (place)] until I have landed?	(1) The ... visual beacon [at ... (place)] is in operation. (2) I will extinguish the aerodrome visual beacon [at ... (place)] until your landing is completed.
QFE	[At ... (place)] what is the present atmospheric pressure at official aerodrome elevation?	At ... (place) the atmospheric pressure at official aerodrome elevation is (or was observed at ... hours to be) ... tenths of millibars. [Example: QFE KLG 9737 (i.e., 973.7 millibars].
QFF	[At ... (place)] what is the present atmospheric pressure converted to mean sea level in accordance with meteorological practice?	At ... (place) the atmospheric pressure converted to mean sea level in accordance with meteorological practice is (or was determined at ... hours to be) ... tenths of millibars.
QFG	Am I overhead?	You are overhead.
QFH	May I descend below the clouds?	You may descend below the clouds.
QFI	Are the aerodrome lights lit?	The aerodrome lights are lit. or Please light the aerodrome lights.
QFL	Will you send up pyrotechnical lights?	I will send up pyrotechnical lights.
QFM	What height above ... (datum) ... (1) should I maintain? (2) are you maintaining? (3) do you intend cruising at?	(2) I am maintaining ... (figures and units) height above ... (datum). (2) I am maintaining ... (figures and units) height above ... (datum). (3) I intend cruising at ... (figures and units) height above ... (datum).
QFO	May I land immediately?	You may land immediately.
QFP	Will you give me the latest information concerning ... facility [at ... (place)]?	The latest information concerning ... facility [at ... (place)] is as follows ... NOTE.—The information is given by sending appropriate NOTAM Code groups.
QFQ	Are the approach and runway lights lit?	The approach and runway lights are lit. or Please light the approach and runway lights.
QFR	Does my landing gear appear damaged?	Your landing gear appears damaged.

Signal	SIGNIFICATION	
	Question or Interrogatory Form	Answer, Information or Advice Form
QFS	Is the ... radio facility at ... (place) in operation?	The ... radio facility at ... (place) is in operation (or will be in operation in ... hours). or Please have the ... radio facility at ... (place) put in operation.
QFT	Between what heights above ... (datum) has ice formation been observed [at ... (position or zone)]?	Ice formation has been observed at ... (position or zone) in the type of ... and with an accretion rate of ... between ... (figures and units) and ... (figures and units) heights above ... (datum).
QFU	What is the magnetic direction (or number) of the runway to be used?	The magnetic direction (or number of the runway to be used is ... NOTE.—The runway number is indicated by a two-figure group and the magnetic direction by a three-figure group.
QFV	Are the floodlights switched on?	The floodlights are switched on. or Please switched on the floodlights.
QFW	What is the length of the runway in use in ... (units)?	The length of runway ... now in use is ... (figures and units).
QFX		I am working (or am going to work on a fixed aerial. or Work on fixed aerial.
QFY	Please report the present meteorological landing conditions [at ... (place)].	The present meteorological landing conditions at ... (place) are ... NOTE.—When given in Q Code the information is sent in the following sequence: QAN, QBA, QNY, QBB, QNH and/or QFE and, if necessary, QMU, QNT, QBJ. It is not normally necessary to precede the QAN, QBA, QNY and QBB information by these Q signals but this may be done if considered desirable.
QFZ	What is the aerodrome meteorological forecast for ... (place) for the period ... hours until ... hours?	The aerodrome meteorological forecast for ... (place) for the period ... hours until ... hours is ... NOTE.—When given in Q Code the following sequence of Q signal answer (or advice) forms is to be used: QAN, QBA, QNY, QBB and, if necessary, QMU, QNT and QBJ.
QGC		There are obstructions to the ... of runway ...
QGD	Are there on my track any obstructions whose elevation equals or exceeds my altitude?	There are obstructions on your track ... (figures and units) height above ... (datum).
QGE	What is my distance to your station (or to ...)?	Your distance to my station (or to ...) is ... (distance figures and units). NOTE.—This signal is normally used in conjunction with one of the signals QUX, QUV, QTE or QUJ.

Signal	SIGNIFICATION	
	Question or Interrogatory Form	Answer, Information or Advice Form
QGH	May I land using ... (procedure or facility)?	You may land using ... (procedure or facility).
QGK	What track should I make good? or What track are you making good?	Make good a track from ... (place) on ... degrees ... (true or magnetic). or I am making good a track from ... (place) on ... degrees ... (true or magnetic).
QGL	May I enter the ... (control area or zone) at ... (place)?	You may enter the ... (control area or zone) at ... place).
QGM		Leave the ... (control area or zone).
QGN	May I be cleared to land [at ... (place)]?	You are cleared to land [at ... (place)].
QGO		Landing is prohibited at ... (place).
QGP	What is my number for landing?	You are number ... to land.
QGQ	May I hold at ... (place)?	Hold at ... (place) at ... (figures and units) height above ... (datum) and await orders.
QGT		Fly for ... minutes on a heading that will enable you to maintain a track reciprocal to your present one.
QGU		Fly for ... minutes on a magnetic heading of ... degrees.
QGV	Do you see me? or Can you see the aerodrome? or Can you see ... (aircraft)?	I see you at ... (cardinal or quadrantal point of direction). or I can see the aerodrome. or I see ... (aircraft).
QGW	Does my landing gear appear to be down and in place?	Your landing gear appears to be down and in place.
QGZ		Hold on ... direction of ... facility.
QHE	Will you inform me when you are on 111 leg of approach?	I am on ... (1) cross-wind leg (2) down-wind leg (3) base leg (all) of approach (4) final leg
QHG	May I enter traffic circuit at ... (figures and units) height above ... (datum)?	Cleared to enter traffic circuit at ... (figures and units) height above ... (datum).
QHH	Are you making an emergency landing?	I am making an emergency landing. or Emergency landing being made at ... (place). All aircraft below ... (figures and units) height above ... (datum) and within a distance of ... (figures and units) leave ... (place or headings).
QHI	Are you (or is ...) (1) waterborne? (2) on land?	I am (or ... is) (1) waterborne / (2) on land / at ... hours.
QHQ	May I make a ... approach [at ... (place)]?	You may make a ... approach [at ... (place)].
QHZ	Shall I circle the aerodrome (or go around)?	Circle the aerodrome (or go around).
QIC	May I establish communication with ... radio station on ... kc/s. (or ... Mc/s.) now (or at ... hours)?	Establish communication with ... radio station on ... kc/s. (or ... Mc/s.) now (or at ... hours).

Signal	SIGNIFICATION	
	Question or Interrogatory Form	Answer, Information or Advice Form
		or I will establish communication with . . . radio station on kc/s. (or . . . Mc/s.) now (or at . . . hours).
QIF	What frequency is . . . using?	. . . is using . . . kc/s. (or . . . Mc/s.).
QJA	Is my . . . (1) Tape / (1) mark and space/reversed?	Your . . . (1) tape / (2) Mark and space/is reversed.
QJB	Will you use . . . (1) radio? (2) Cable? (3) telegraph? (4) teletypewriter? (5) telephone? (6) receiver? (7) transmitter? (8) reperforator?	I will use . . . (1) radio. (2) cable. (3) telegraph. (4) teletypewriter. (5) telephone. (6) receiver. (7) transmitter. (8) reperforator.
QJC	Will you check your . . . (1) transmitter distributor? (2) auto-head? (3) perforator? (4) reperforator? (5) printer? (6) printer motor? (7) keyboard? (8) antenna system?	I will check my . . . (1) transmitter distributor. (2) auto-head. (3) perforator. (4) reperforator. (5) printer. (6) printer motor. (7) keyboard. (8) antenna system.
QJD	Am I transmitting . . . (1) in letters? (2) in figures?	You are transmitting . . . (1) in letters. (2) in figures.
QJE	Is my frequency shift . . . (1) too wide? (2) too narrow? (3) correct?	Your frequency shift is . . . (1) too wide. (2) too narrow (by . . . cycles). (3) correct.
QJF		My signal as checked by monitor . . . is satisfactory . . . (1) locally. (2) as radiated.
QJG	Shall I revert to automatic relay?	Revert to automatic relay.
QJH	Shall I run . . . (1) my test tape? (2) a test sentence?	Run . . . (1) your test tape. (2) a test sentence.
QJI	Will you transmit a continuous . . . (1) mark? (2) space?	I am transmitting a continuous . . . (1) mark. (2) space.
QJK	Are you receiving . . . (1) a continuous mark? (2) a continuous space? (3) a mark bias? (4) a space bias?	I am receiving . . . (1) a continuous mark. (2) a continuous space. (3) a mark bias. (4) a space bias.
QKA		I have effected rescue and am proceeding to . . . base [with . . . persons injured requiring ambulance].
QKC		The sea conditions (at . . . position) . . . (1) permit alighting but not take-off. (2) render alighting extremely hazardous.

Signal	SIGNIFICATION	
	Question or Interrogatory Form	Answer, Information or Advice Form
QKN		Aircraft plotted (believed to be you) in position . . . on track . . . degrees at . . . hours.
QLB	Will you monitor . . . station and report regarding range, quality, etc.?	I have monitored . . . station and report (briefly) as follows . . .
QLH	Will you use simultaneous keying on . . . frequency and . . . frequency?	I will now key simultaneously on . . . frequency and . . . frequeney.
QLV	Is the . . . radio facility still required?	The . . . radio facility is still required.
QMH		Shift to transmit and receive on . . . kc/s. (or . . . Mc/s); if communication is not established within 5 minutes, revert to present frequency.
QMI	Report the vertical distribution of cloud [at . . . (position or zone] as observed from your aircraft.	The vertical distribution of cloud as observed from my aircraft at . . . hours at . . . (position or zone) is: lowest layer observed* . . . eights(. . . type) with base of . . . (figures and units) and tops of . . . (figures and units.) [*And similarly in sequence for each of the layers observed.] height above . . . (datum). Example.—QMI 1400 11 2 CU 1000 FT 2500 FT 6 SC 6000 FT 10000 FT 5 AC 13000 FT 14000 FT MER.
QMU	What is the surface temperature at . . . (place) and what is the dew point temperature at that place?	The surface temperature at . . . (place) at . . . hours is . . . degrees and the dew point temperature at that time and place is . . . degrees.
QMW	At . . . (position or zone) what is (are) the height(s) above . . . (datum) of the zero centigrade isotherm(s)?	At . . . (position or zone) the zero centigrade isotherm(s) is (are) at . . . (figures and units) height(s) above . . . (datum).
QMX	What is the air temperature [at (position or zone)] (at . . . hours) at the . . . (figures and units) height above . . . (datum)?	At . . . (position or zone) at . . . hours the air temperature is . . . (degress and units) at . . . (figures and units) heights above . . . (datum). NOTE.—Aircraft reporting QMX information will transmit the temperature figures as corrected for airspeed.
QMZ	Have you any amendments to the flight forecast in respect of section of route yet to be traversed?	The following amendment(s) should be made to the flight forecast . . . [If no amendments, signal QMZ NIL.]
QNE	What indieation will my altimeter give on landing at . . . (place) at . . . hours, my subscale being set to 1013.2 millibars (29.92 inches)?	On landing at . . . (place) at . . . hours, with your sub-scale being set to 1013.2 millibars (29.92 inches), your altimeter will indicate . . . (figures and units).
QNH	What should I set on the subscale of my altimeter so that the instrument would indicate my elevation if I were on the ground at your station?	If you set the sub-scale of your altimeter to read . . . tenths of millibars (or hundredths of an inch*), the instrument would indicate your elevation if you were on the ground at my station at . . . hours. *NOTE.—When the setting is given in hundredths of an inch the abbreviation INS is used to identify the units.

Signal	SIGNIFICATION	
	Question or Interrogatory Form	Answer, Information or Advice Form
QNI	Between that heights above . . . (datum) has turbulence been observed at . . . (position or zone)?	Turbulence has been observed at . . . (position or zone) with an intensity of . . . between . . . (figures and units) and . . . (figures and units) heights above . . . (datum).
QNO		I am not equipped to give the information (or provide the facility) requested.
QNR		I am approaching my point of no return.
QNT	What is the maximum gust speed of the surface wind at . . . (place)?	The maximum gust speed of the surface wind at . . . (place) at . . . hours is . . . (speed figures and units).
QNY	What is the present weather and the intensity thereof at . . . (place, position or zone)?	The present weather and intensity thereof at . . . (place) at . . . hours is . . . (dust-storm, sandstorm, rain, snow, hail, thunderstorm, etc.). NOTES: (*a*) If no phenomena as above, signal QNY NIL. (*b*) When present weather information is transmitted by a ground station, the information is to be given in accordance with the present weather table in the International AERO Form [Annex 3, Table 26]. (*c*) When present weather information is transmitted by an aircraft, the information is to be given in accordance with the present or past weather table [Annex 3, Table 22], or alternatively the appropriate answer (or advice) form of signals QBF, QBG, QBH, QBK, QBN, QBP.

GENERAL CODE SIGNALS

INTRODUCTION

The significations assigned to signals of the General Code, established by the International Telecommunications Union (ITU) [Atlantic City, 1947], have reproduced in this part in their original form.

"Aeronautical Notes" have been added to certain significations to clarify the ITU terminology and intent when viewed from the point of view of those engaged in aviation.

GENERAL CODE SIGNALS

Signal	SIGNIFICATION	
	Question or Interrogatory Form	Answer, Information or Advice Form
QRA	What is the name of your station?	The name of my station is . . .
QRB	How far approximately are you from my station?	The approximate distance between our station is . . . nautical miles (or . . . kilometers).
QRC	By what private enterprise (or State administration) are accounts for charges for your station settled?	The accounts for charges of my station are settled by the private enterprise . . . (or State administration).
QRD	Where are you bound and where are you from?	I am bound for . . . from . . .

Signal	SIGNIFICATION	
	Question or Interrogatory Form	Answer, Information or Advice Form
QRE	What is your estimated time of arrival at . . . (place)?	My estimated time of arrival at . . . (place) is . . . hours.
	Aeronautical Note.—In the international aeronautical telecommunication service "at" is synonymous with "over".	*Aeronautical Note.*—In the international aeronautical telecommunication service "at" is synonymous with "over".
QRF	Are you returning to . . . . (place)?	I am returning to . . . (place). or Return to . . . (place).
QRG	Will you tell me my exact frequency (or that of . . .)?	Your exact frequency (or that of . . .) is . . . kc/s. (or . . . Mc/s.).
QRH	Does my frequency vary?	Your frequency varies.
QRI	How is the tone of my transmission?	The tone of your transmission is . . . (1) good. (2) variable. (3) bad.
QRK	What is the readability of my signals (or those of . . .)?	The readability of your signals (or those of . . .) is . . . (1) unreadable. (2) readable now and then. (3) readable but with difficulty. (4) readable. (5) perfectly readable.
QRL	Are you busy?	I am busy (or I am busy with . . .). Please do not interfere.
QRM	Are you being interfered with?	I am being interfered with.
QRN	Are you troubled by static?	I am troubled by static.
QRO	Shall I increase power?	Increase power.
	Aeronautical Note.—Relates to communication.	*Aeronautical Note.*—Relates to communication.
QRP	Shall I decrease power?	Decrease power.
	Aeronautical Note.—Relates to communication,	*Aeronautical Note.*—Relates to communication.
QRQ	Shall I send faster?	Send faster (. . . words per minute).
QRR	Are you ready for automatic operation?	I am ready for automatic operation. Send at . . . words per minute.
QRS	Shall I send more slowly?	Send more slowly (. . . words per minute).
QRT	Shall I stop sending?	Stop sending.
QRU	Have you anything for me?	I have nothing for you.
QRV	Are you ready?	I am ready.
QRW	Shall I inform . . . that you are calling him on . . . kc/s. (or . . . Mc/s)?	Please inform . . . that I am calling him on . . . kc/s (or . . . Mc/s.).
QRX	When will you call me again?	I will call you again at . . . hours [on . . . kc/s. (or . . . Mc/s.)].
QRY	What is my turn? (Relates to communication.)	Your turn is number . . . (or according to any other indication). (Relates to communication.)
QRZ	Who is calling me?	Your are being called by . . . [on . . . kc/s (or . . . Mc/s.)].
QSA	What is the strength of my signals (or those of . . .)?	The strength of your signals (or those o . . .) is . . . (1) scarcely perceptible. (2) weak.

Signal	SIGNIFICATION	
	Question or Interrogatory Form	Answer, Information or Advice Form
		(3) fairly good. (4) good. (5) very good.
QSB	Are my signals fading?	Your signals are fading.
QSC	Are you a cargo vessel?	I am a cargo vessel.
QSD	Is my keying defective?	Your keying is defective.
QSG	Shall I send . . . telegrams at a time?	Send . . . telegrams at a time.
QSI		I have been unable to break in on your transmission. or Will you inform . . . (call sign) that I have been unable to break in on his transmission [on . . . kc/s. (or . . . Mc/s.)].
QSJ	What is the charge to be collected per word to . . . including your internal telegraph charge?	The charged to be collected per word to . . . including my internal telegraph charge is . . . francs.
QSK	Can you hear me between your signals?	I can hear you between my signals.
QSL	Can you acknowledge receipt?	I am acknowledging receipt.
QSM	Shall I repeat the last telegram which I sent you (or some previous telegram)?	Repeat the last telegram which you sent me [or telegram(s) number(s) . . .].
QSN	Did you hear me [or . . . (call sign)] on . . . kc/s. (or . . . Mc/s)?	I did hear you [or . . . (call sign)] on . . . kc/s. (or . . . Mc/.).
QSO	Can you communicate with . . . direct or by relay?	I can communicate with . . . direct (or by relay through . . .).
QSP	Will you relay to . . . free of charge?	I will relay to . . . free of charge.
QSQ	Have you a doctor on board [or is . . . (name of person) on board?	I have a doctor on board [or . . . (name of person) is on board].
QSU	Shall I send or reply on this frequency [or on . . . kc/s. (or . . . Mc/s.)] (with emissions of class . . .)?	Send or reply on this frequency [or on . . . kc/s. (or . . . Mc/s.)] with emissions of class . . .).
QSV	Shall I send a series of V's on this frequency [or . . . kc/s. (or . . . Mc/s.)]?	Send a series of V's on this frequency [or on . . . kc/s. (or . . . Mc/s.)].
QSW	Will you send on this frequency [or on . . . kc/s. (or . . . . Mc/s.)] (with emissions of class . . .)?	I am going to send on this frequency [or on . . . kc/s. (or . . . Mc/s.)] (with emissions of class . . .).
QSX	Will you listen to . . . [call sign(s)] on . . . kc/s. (or . . . Mc/s)?	I am listening to . . . [call sign(s)] on . . . kc/s. (or . . . Mc/s.).
QSY	Shall I change to transmission on another frequency?	Change to transmission on another frequency [or on. . . kc/s. (or . . . Mc/s.)].
QSZ	Shall I send each word or group more than once?	Send each word or group twice (or . . . times).
QTA	Shall I cancel telegram number . . . as if it had not been sent?	Cancel telegram number . . . as if it had not been sent.
QTB	Do you agree with my counting of words?	I do not agree with your counting of words; I will repeat the first letter or digit of each word or group.
QTC	How many telegrams have you to send?	I have . . . telegrams for you (or for . . .).
QTE	What is my TRUE bearing from you? or What is my TRUE bearing from . . . (call sign)? or	Your TRUE bearing from me is . . . degrees (at . . . hours). or Your TRUE bearing from . . . (call sign) was . . . degrees (at . . . hours).

Signal	SIGNIFICATION	
	Question or Interrogatory Form	Answer, Information or Advice Form
	What is the TRUE bearing of . . . (call sign) from . . . (call sign)?	or The TRUE bearing of . . . (call sign) from . . . (call sign) was . . . degress at . . . hours.
QTF	Will you give me the position of my station according to the bearings taken by the direction-finding stations which you control?	The position of your station according to the bearings taken by the direction-finding stations which I control was . . . latitude . . . longitude, class . . . at . . . hours. *Aeronautical Note.*—In the aeronautical direction-finding service any other indication of position may be used.
QTG	Will you send two dashes of ten seconds each followed by your call sign (repeated . . . times) [on . . . kc/s. (or . . . Mc/s.)]? or Will you request . . . to send two dashes of ten seconds followed by his call sign (repeated . . . times) on . . . kc/s. (or . . . Mc/s.)?	I am going to send two dashes of ten seconds each followed by my call sign (repeated . . . times) [on . . . kc/s. (or . . . Mc/s.)]. or I have requested . . . to send two dashes of ten seconds followed by his call sign (repeated . . . times) on . . . kc/s. (or . . . Mc/s.).
QTH	What is your position in latitude and longitude (or according to any other indication)?	My position is . . . latitude . . . longitude (or according to any other indication).
QTI	What is your TRUE track?	My TRUE track is . . . degrees.
QTJ	What is your speed? (Requests the speed of a ship or aireraft through the water or air respectively.)	My speed is . . . knots (or . . . kilometres per hour). (Indicates the speed of a ship or aircraft through the water or air respectively.) *Aeronautical Note.*—In the international aeronautical telecommunication service it is permissible to give the speed in statute miles per hour using the abbreviation MPH.
QTL	What is you TRUE heading? (TRUE course with no wind.) *Aeronautical Note.*—Stations of the international aeronautical telecommunication service will disregard the ITU explanatory note shown in parenthesis.	My TRUE heading . . . degrees.
QTN	At what time did you depart from . . . (place)?	I departed from . . . (place) at . . . hours.
QTO	Are you airborne)? or Have you left dock (or port)?	I am airborne. or I have left dock (or port).
QTP	Are you going to alight (or land)? or Are you going to enter dock (or port)?	I am going to alight (or land). or I am going to enter dock (or port).
QTQ	Can you communicate with my station by means of the international code of signals?	I am going to communicate with your station by means of the international code of signals.
QTR	What is the correct time?	The correct time is . . . hours.
QTS	Will you send your call sign for . . . minute(s) now (or at . . . hours) on . . . kc/s. (or . . . Mc/s.) so that your freqeney may be measured?	I will send my call sign for . . . minutes(s) now (or at . . . hours) on . . . ke/s. (or . . . . Mc/s.) so that my frequeney may be measured.
QTU	What are the hours during which your station is open?	My station is open from . . . to . . . hours.

Signal	SIGNIFICATION	
	Question or Interrogatory Form	Answer, Information or Advice Form
QTV	Shall I stand guard for you on the frequency of . . . kc/s. (or . . . Mc/s.) (from . . . to . . . hours)?	Stand guard for me on the frequency of . . . kc/s. (or . . . Mc/s.) (from . . . to . . . hours).
QTX	Will you keep your station open for further communication with me until further notice (or until . . . hours)?	I will keep my station open for further communication with you until further notice (or until . . . hours).
QUA	Have you news of . . . (call sign)?	Here is news of . . . (call sign).
QUB	Can you give me, in the following order, information concerning: visibility, height of clouds, direction and velocity of ground wind at . . . (place of observation)?	Here is the information requested . . .
QUC	What is the number (or other indication) of the last message you received from me [or from . . . (call sign)]?	The number (or other indication) of the last message I received from you [or from . . . (call sign)] is . . .
QUD	Have you received the urgency signal sent by . . . (call sign of mobile station)?	I have received the urgency signal sent by . . . (call sign of mobile station) at . . . hours.
QUF	Have you received the distress signal sent by . . . (call sign of mobile station)?	I have received the distress signal sent by . . . (call sign of mobile station) at . . . hours.
QUG	Will you be forced to alight (or land)?	I am forced to alight (or land) immediately. or I will be forced to alight (or land) at . . . (position or place).
QUH	Will you give me the present barometric pressure at sea level? *Aeronautical Note.*—Stations of the aeronautical telecommunication service will interpret this signal as: What is the present atmospheric pressure at the present water level?	The present barometric pressure at sea leavel is . . . (units). *Aeronautical Note.*—Stations of the aeronautical telecommunication service will interpret this signal as: The present atmospheric pressure at the present water level at . . . (place or position) at . . . hours is . . . (figures and units).
QUI	Are your navigation lights working?	My navigation lights are working.
QUJ	Will you indicate the TRUE heading for me to steer towards you (or . . .) with no wind?	The TRUE heading for you to steer towards me (or . . .) with no wind is . . . degrees at . . . hours.
QUK	Can you tell me the condition of the sea observed at . . . (place or co-ordinates)?	The sea at . . . (place or co-ordinates) is . . . *Aeronautical Note.*—Stations of the aeronautical telecommunication service will complete the answer, information or advice form by the use of numbered alternatives as given in Table 19, Annex 3.
QUL	Can you tell me the swell observed at . . . (place or co-ordinates)?	The swell at . . . (place or co-ordinates) is . . . *Aeronautical Note.*—Stations of the aeronautical telecommunication service will complete the answer, information or advice form by the use of the following numbered alternatives:

Signal	SIGNIFICATION	
	Question or Interrogatory Form	Answer, Information or Advice Form
		Length of levell / Height 0 — / — 1 Short or average / Low 2 Long / Low 3 Short / Moderate 4 Average / Moderate 5 Long / Moderate 6 Short / Heavy 7 Average / Heavy 8 Long / Heavy 9 Confused Additionally, stations of the aeronautical telecommunication service may indicate the direction of swell by the use of the appropriate cardinal or quadrantal point abbreviation NORTH, NE, E, SE, etc. following the numbered alternative for indicating swell condition. The descriptions in the above numbered alternatives are as follows: Length of swell Short: 0–100 metres (0–300 feet) Average: 100–200 metres (300–600 feet). *Long:* Over 200 metres (600 feet) Height of swell *Low:* below 1.75 metres (below 6 feet) *Moderate:* 1.75 to 3.75 (6 to 12 feet) *Heavy:* above 3.75 metres (above 12 feet)
QUL		
QUO	Shall I search for ... (1) aircraft, (2) ship, (3) survival craft, in the vicinity of ... latitude ... longitude (or according to any other indication)?	Please search for ... (1) aircraft, (2) ship, (3) survival craft, in the vicinity of ... latitude ... longitude (or according to any other indication).
QUP	Will you indicate your position by ... (1) searchlight? (2) black smoke trail? (3) pyrotechnic lights?	My position is indicated by ... (1) searchlight. (2) black smoke trail. (3) pyrotechnic lights.
QUQ	Shall I train my searchlight nearly vertical on a cloud, occulting if possible and, if your aircraft is seen or heard, deflect the beam up wind and on the water (or land) to facilitate your landing?	Please train your searchlight on a cloud, occulting if possible and, if my aircraft is seen or heard, deflect the beam up wind and on the water (or land) to facilitate my landing.
QUR	Have survivors ... (1) received survival equipment? (2) been picked up by rescue vessel? (3) been reached by ground rescue party?	Survivors ... (1) are in possession of survival equipment dropped by ... (2) have been picked up by rescue vessel. (3) have been reached by ground rescue party.
QUS	Have you sighted survivors or wreckage? If so, in what position?	Have sighted ... (1) survivors in water, (2) survivors on rafts, (3) wreckage, in position ... latitude ... longitude (or according to any other indication).

Signal	SIGNIFICATION	
	Question or Interrogatory Form	Answer, Information or Advice Form
QUT	Is position of incident marked?	Position of incident is marked (by ...).
QUU	Shall I home ship or aircraft to my position?	Home ship or aircraft ... (1) ... (call sign) to your position by transmitting your call sign and long dashes on ... kc/s. (or ... Mc/s.). (2) ... (call sign) by transmitting on 111 kc/s. (or ... Mc/s.) courses* to steer to reach you. **Aeronautical Note.*—Stations of the aeronautical telecommunication service will interpret "courses" to be "headings".
QUV	What is my MAGNETIC bearing from you (or from ...)? [This signal, in general, will not be used in the maritime mobile service.] *Aeronautical Note.*—When using QDL QUV procedure in the aeronautical telecommunication service, completion of the "hours" blank space is not required.	Your MAGNETIC bearing from me (or from ...) was ... degrees at ... hours. [This signal, in general, will not be used in the maritime mobile service.]
QUX	Will you indicate the MAGNETIC course* for me to steer towards you (or ...) with no wind? [This signal, in general, will not be used in the maritime mobile service.] *Aeronautical Note.* *(*a*) All stations of the international aeronautical telecommunication service will interpret "course" as referring to "heading"	The MAGNETIC course* for you to steer to reach me (or ...) with no wind was ... degrees at ... hours. [This signal, in general, will not be used in the maritime mobile service.] *Aeronautical Notes:* *(*a*) All stations of the aeronautical telecommunication service will interpret "course" as referring to "heading". (*b*) When using QDL QUX procedure in the aeronautical telecommunication service, completion of the "hours" blank space is not required.

CHAPTER 3.—MISCELLANEOUS ABBREVIATIONS AND SIGNALS FOR USE IN THE AERONAUTICAL TELECOMMUNICATION SERVICE.

INTRODUCTION

The following abbreviations and signals are provided for use in the aeronautical telecommunication service. In particular, they should be used, where appropriate, to complete or amplify the meanings assigned to Q Code signals or NOTES Code groups and in the text of messages.

Abbreviations or signals annotated * are also available for use in communicating with stations in the maritime mobile service.

MISCELLANEOUS ABBREVIATIONS AND SIGNALS

Abbreviation or Signal	Signification
AC	Altocumulus.
ACC	Area control.
ACFT	Aircraft.
AD	Aerodrome.
ADZ	Advise.
AERO	Aero form of the International Code.
AGN	Again.
AIR	Relative to air.
ANT	Before.
APP	Approach control.

Abbreviation or Signal	Signification
APR	After ... (time or place).
ARFOT	Area forecast in units of English system.
ARMET	Area forecast in units of Metric system.
ARR	Arrive (or arrival).
AS	Altostratus.
ASC	I am ascending [to ... (figures and units) height above ... (datum)].
ATC	Air traffic control (in general).
ATP	At ... (time or place).
AWY	Airway.
BABS	Beam approach beacon system.
BCST	Broadcast.
BOH	Break-off height.
BRF	Short (used to indicate the type of approach desired or required).
BTN	Between.
CB	Cumulonimbus.
CC	Cirrocumulus.
CEN	Degrees centigrade.
CI	Cirrus.
CLA	Clear type of ice formation.
CLR	Cleared to ...
CS	Cirrostratus.
CTA	Control area.
CTR	Control zone.
CU	Cumulus.
*DB	I cannot give you a bearing. You are not in the calibrated sector of this station.
*DC	The minimum of your signal is suitable for the bearing.
DCT	Direct (in relation to flight plan clearances and type of approach).
DES	I am descending [to ... (figures and units) height above ... (datum)].
*DF	Your bearing at ... hours was ... degrees in the doubtful sector of this station, with a possible error of ... degrees.
*DG	Please advise me if you note an error in the bearing given.
*DI	Bearing doubtful in consequence of the bad quality of your signal.
*DJ	Bearing doubtful because of interference.
*DO	Bearing doubtful. Ask for another bearing later (or at ... hours).
DP	Possible error of bearing may amount to ... degrees.
DRT	Keep straight ahead.
*DS	Adjust your transmitter, the minimum of your signal is too broad.
*DT	I cannot furnish you with a bearing, the minimum of your signal is too broad.
DU	Position not guaranteed.
DY	This station is not able to determine the sense of the bearing. What is your approximate direction relative to this station?
*DZ	Your bearing is reciprocal. (To be used only by the control station of a group of direction-finding stations when it is addressing stations of the same group.)
E	East or Eastern longitude.
*ER	Here ... *Aeronautical Note.*—In the aeronautical telecommunication service ER may also be used to indicate Herewith ...
ERB	Landing off a runway is permitted.
*ETA	Estimated time of arrival.
ETD	Estimated time of departure.
ETI	The information is estimated.
FAH	Degrees Fahrenheit.
FBL	Light (used to qualify icing, turbulence, interference or static reports).
FC	Flight control.
FIR	Flight information region.
FLT	Flight.
FNA	Final approach.
FOT	Units of English system.
FRCU	Fractocumulus.
FS	Fractostratus.
FSL	Full stop landing.
FT	Feet (dimensional unit).
GCA	Ground controlled approach system.
GEO	Geographic or true.
GMT	Greenwich mean time.
GND	Relative to ground.
HBN	Hazard beacon.
HEL	Helicopter.
HF	High frequency [3,000 to 30,000 kc/s.].
HR	Hours (period of time).
IAR	Intersection of air routes.
ID	Identification.
IFR	Instrument flight rules.
ILS	Instrument landing system.
*IMI	Interrogation sign (question mark) [..—..].
IMT	Immediately.
INA	Initial approach.
INF	Below ...
INP	If not possible.
INS	Inches (dimensional unit).
IR	Ice on runway.
IRL	Intersection of range legs.
IVB	If forward visibility is less than ... (figures and units).

Abbreviation or Signal	Signification
IVR	If forward flight visibility remains ... (figures and units).
KC	Kicocycles per second.
KG	Kilogrammes.
KM	Kilometres.
KMH	Kilometres per hour.
KT	Knots.
LB	Pounds (weight).
LEFT	Left (direction of turn).
LF	Low frequency [30 to 300 kc/s.].
LNG	Long (used to indicate type of approach desired or required).
LRG	Long range.
LSA	Low intensity approach lighting system.
LSB	High intensity approach lighting system.
M	Metres.
MAG	Magnetic.
MB	Millibars.
MC	Megacycles per second.
MER	The indication of vertical distance is given as TRUE height above mean sea level (e.g. after applying the correction for ambient temperature to the altitude reading of a pressure altimeter set to QNH).
MET	Meteorlogical.
MF	Medium frequency [300 to 3,000 kc/s.].
MKR	Marker radio beacon.
ML	Statute mile(s).
*MN	Minute (or minutes).
MNTN	Maintain.
MOD	Moderate (used to qualify icing, turbulence, interference or static reports).
MPH	Statute miles per hour.
MRG	Medium range.
MS	Minus.
MSL	The indication of vertical distance is given as the reading, without correction for ambient temperature, of a pressure altimeter set to QNH.
MTU	Metric units.
MX	Mixed type of ice formation (white and clear).
N	North latitude. (To be used only with figures indicating latitude, e.g. 4730N.) Aeronautical Note.—In the maritime mobile service, the abbreviation N Signifies No and is used in that service to give a negative sense to Q signals.
NDB	Non-directional radiobeacon.
NE	North-East.
*NIL	I have nothing to send to you.
NM	Nautical mile(s).
NML	Normal.
NO	No.
*NORTH	North (cardinal point of direction).
NR	Number.
NS	Nimbostratus.
NW	North-West.
OPA	White type of ice formation.
OPC	The control indicated is operational control.
ORD	Indication of an order.
PLA	Practice low approach.
PP	Descent through cloud (procedure).
PRES	The indication of vertical distance is (or is to be) replaced by the indication of the pressure, expressed in millibars, at the level and the position of the aircraft.
PREVU	The information refers to forecast and not to present conditions.
PSGR	Passenger(s).
PS	Plus.
PTN	Procedure turn.
QUAD	Quadrant.
RAD	The control referred to is radio control.
RCA	Reach cruising altitude.
RDO	Radio
REP	Reporting point.
RITE	Right (direction of turn).
RNG	Radio range.
RNWY	Runway.
ROFOT	Route forecast in units of English system.
ROMET	Route forecast in units of Metric system.
RON	Receiving only.
RP	Rapid.
RTT	Radioteletypewriter.
RUT	Standard regional route transmitting frequencies.
S	South or Southern latitude.
SAP	As soon as possible.
SC	Stratocumulus.
SE	South-East.
SEV	Severe.
SIA	Standard instrument approach.
SID	Standard instrument departure.
SKED	Schedule.
SLW	Slow.
SOL	The indication of vertical distance is given as the reading, without correction for ambient temperature of a pressure altimeter set to QFE. (The abbreviation should only be used in the vicinity of the station which provided the QFE setting).
SRG	Short range.
ST	Stratus.
STA	Straight in approach.

Abbreviation or Signal	Significance
STD	The indication of vertical distance is given as the reading, without correction for ambient temperature, of a pressure altimeter having the subscale set to 1013.2 millibars (29.92 inches).
SUP	Above.
SW	South-West.
TAFOT	Aerodrome forecast in units of English system.
TAMET	Aerodrome forecast in units of Metric system.
TER	The indication of vertical distance is given as TRUE height above official aerodrome level (e.g. after applying the correction for ambient temperature to the vertical distance reading of a pressure altimeter set to QFE).
TFZ	Traffic zone.
TGL	Touch and go landing.
TIL	Until.
TIP	Until past ... (place).
TO	To ... (place).
TRB	It is not necessary to keep to the runways and taxiways after landing.
TT	Teletypewriter.
TWR	Aerodrome control.
UAB	Until advised by ...
UFN	Until further notice.
VAN	Runway control van.
VIA	By way of.
VIO	Heavy (used to qualify icing, turbulence, interference or static reports).
VFR	Visual flight rules.
VHF	Very high frequency [30,000 kc/s. to 300 mc/s.].
VLR	Very long range.
VOR	VHF omnidirectional radio range.
VSA	By visual reference to the ground.
W	West or Western longitude.
WX	Weather.
XS	Atmospherics.
YD	Yards.
YR	Your.

DESIGNATION OF EMISSIONS

INTRODUCTION

Emissions are designated according to their classification and the width of the frequency band occupied by them.

Abbreviations or signals annotated * are also available for use in communicating with stations of the maritime mobile service.

Type of Modulation	Type of Transmission	Supplementary Characteristics	Abbreviation
Amplitude modulated.	Absence of any modulation.	—	*AO
	Telegraphy without the use of modulating audio frequency (on-off keying).	—	*A1
	Telegraphy by the keying of a modulating audio frequency or audio frequencies, or by the keying of the modulated emission (special case: an unkeyed modulated emission).	—	*A2
	Telephony.	Double sideband, full carrier.	*A3
		Single sideband, reduced carrier.	*A3a
		Two independent sidebands, reduced carrier.	*A3b
	Facsimile.	—	*A4
	Television.	—	*A5
	Composite transmissions and cases not covered by the above.	—	*A9
	Composite transmissions.	Reduced carrier.	*A9c

Type of Modulation	Type of Transmission	Supplementary Characteristics	Abbreviation
Frequency (or phrase) modulated.	Absence of any modulation.	—	*F0
	Telegraphy without the use of modulating audio frequency (frequency shift keying).	—	*F1
	Telegraphy by the keying of a modulating audio frequency or audio frequencies, or by the keying of the modulated emission (special case: an unkeyed emission modulated by audio frequency).	—	*F2
	Telephony.	—	*F3
	Facsimile.	—	*F4
	Television.	—	*F5
	Composite transmissions and cases not covered by the above.	—	*F9
Pulse modulated.	Absence of any modulation intended to carry information.	—	*P0
	Telegraph without the use of modulating audio frequency.	—	* PI
	Telegraphy by the keying of a modulating audio frequency or audio frequencies, or by the keying of the modulated pulse (special case: an unkeyed modulated pulse).	Audio frequency or audio frequencies modulating the pulse in amplitude.	*P2d
		Audio frequency or audio frequencies modulating the width of the pulse.	*P2e
		Audio frequency or audio frequencies modulating the phase (or position) of the pulse.	*P2f
	Telephony.	Amplitude modulated.	*P3d
		Width modulated.	*P3e
		Phase (or position) modulated.	*P3f
	Composite transmissions and cases not covered by the above.	—	*P9

CHAPTER 4.—PROCEDURE SIGNALS EMPLOYED IN THE AERONAUTICAL TELECOMMUNICATION SERVICE.

INTRODUCTION

The following procedure signals are provided to facilitate to rapid clearance of messages on aeronautical telecommunication circuits by communications personnel.

Signals annotated* are also available for use in communicating with stations of the maritime mobile service.

PROCEDURE SIGNALS

Signal	Signification
* AA	All after . . . [When this abbreviation is used to request a repetition, the question mark (IMI) precedes the abbreviation, e.g. IMI AA . . .].
* AB	All before . . . [When this abbreviation is used to request a repetition, the question mark (IMI) precedes the abbreviation, e.g. IMI AB. . .].
* ABV	Repeat (or I repeat) the figures in abbreviated form.
* ADS	The address. [When this abbreviation is used to request a repetition, the question mark (IMI) precedes the abbreviation, e.g. IMI ADS. . .].
AL	Repeat all that has just been sent.
* AR	End of transmission [.–.–].
* AS	Wait [.–. . .].
* BK	Signal used to interrupt a transmission in progress.
* BN	All between . . . and . . . [When this abbreviation is used to request a repetition, the question mark (IMI) precedes the abbreviation, e.g. IMI BN . . .].
* BQ	A reply to an RQ.
BT	Separative sign [–. . .–].
* C	Yes.
* CFM	Confirm (or I confirm).
* CL	I am closing my station.
CMN	Circuit message number.
* COL	Collate (or I collate).
* CP	General call to two or more specified stations.
* CQ	General call to all stations.
COR	Correction.
* CS	Call sign [used to request a call sign].
CTF	I am referring to the originator (or . . . station) to answer your querry [or the following groups have been referred back to the originator for confirmation or correction].
* DE	[The signal is used to separate the call sign of the station called from the call sign of the calling station.]
DTG	Date-time group.
DUPE	This is a duplicate message.
* JM	Make a series of dashes if I may transmit. Make a series of dots to stop my transmission. [Note to be used on 500 kc/s. except in cases of distress.]
* K	Invitation to transmit.
LR	The last message received by me was . . .
LS	The last message sent by me was . . . (or last message was . . .).
MC . . . (number)	Multiple copy for delivery to . . . addresses.
MIS	Missing . . .(circuit message number).
* MSG	Message. Aeronautical Note.—In the maritime service MSG is a profix indicating a message to or from the master of a ship concerning its operation or navigation.
MSR	The following message has been misrouted. I am forwarding it to you for delivery or relay.
* OK	We agree (or It is correct).
* PBL	Preamble. [When this abbreviation is used to request a repetition, the question mark (IMI) precedes the abbreviation, e.g. IMI PBL.]
POUR	Station . . . replaces station. . .
* R	Received [acknowledgement of receipt].
* REF	Reference to . . . (or Refer to . . .).
* RPT	Repeat (or I repeat) (or repeat . . .).
* RQ	Indication of a request.
RT	Relay message to . . . addresses.
* SIG	Signature. [When this abbreviation is used to request a repetition, the question mark (IMI) precedes the abbreviation, e.g. IMI SIG.].
* TFC	Traffic.
* TXT	Text. [When this abbreviation is used to request a repetition, the question mark (IMI) precedes the abbreviation, e.g. IMI TXT.]
* VA	End of work [. . .–.–].
* VVV	(Sent in a series.) Marking or test transmission.
* W	Word(s) or group(s)
* WA	Word after . . . [When this abbreviation is used to request a repetition, the question mark (IMI) precedes the abbreviation, e.g. IMI WA . . .]
* WB	Word before . . . [When this abbreviation is used to request a repetition, the question mark (IMI) precedes the abbreviation, e.g. IMI W B . . .].
DF	I am connecting you to the station you request.
EEEE	Error.
LO	Connect me to a perforator receiver.

Signal	
MMMM	Connect to . . . station. (Used in multiple transmission, followed by call signs of stations.)
NEH	I am connecting you to a station which will accept traffic for the station you request.
OCC	The line is engaged.
PUN	Prepare a new perforated tape for message . . .
RRN	Return message . . .
THRU	I am connecting you to another switchboard.

PROCEDURE WORDS AND PHRASES

The following procedure words and phrases for use in radiotelephone communications:

Phrase	Meaning
ACKNOWLEDGE	"Let me know that you have received and understood this message."
AFFIRMATIVE	"Yes" *or* "permission granted".
BREAK	"I hereby indicate the separation between portions of the message." (To be used where there is no clear distinction between the text and other portions of the message.)
CORRECTION	"An error has been made in this transmission (or message indicated). The correct version is . . . ."
GO AHEAD	"Proceed with your message."
HOW DO YOU READ	"Self-explanatory
I SAY AGAIN	Self-explanatory
NEGATIVE	"No" *or* "permission not granted" *or* "that is not correct."
OVER	"My transmission is ended, and I expect a response from you."
OUT	"This conversation is ended and no response is expected."
READ BACK	"Repeat all of this message back to me exactly as received after I have given OVER."
ROGER	"I have received all of your last transmission."
SAY AGAIN	Self-explanatory
SPEAK SLOWER	Self-explanatory
STAND BY	Self-explanatory
THAT IS CORRECT	Self-explanatory
VERIFY	"Check coding, check text with the originator and send correct version."
WILCO	"Your last message (or message indicated) received, understood, and will be complied with."
WORDS TWICE	(a) *As a request:* "Communication is difficult. Please send every word twice. (b) *As information:* "Since communication is difficult, every word in this message will be sent twice."

CHAPTER 5.—MISCELLANEOUS ABBREVIATIONS AND SIGNALS FOR USE IN THE DOMESTIC TELECOMMUNICATION SERVICE.

Abbreviation or Signal	Signification
ABD	Aboard
ABT	About
ACPY	Accompany
ACCT	Account
ACK	Acknowledge
ACTG	Acting
ADTN	Addition
ADS	Address
ADRE	Addressee
ADM	Administration
ADVC	Advice
AERNL	Aeronautical
AHD	Ahead
APRT	Airport
ALTN	Alternate
ALT	Altitude
AMT	Amount
ANS	Answer
APV	Approve
APRX	Approximate
APL	April
ASST	Assistant
ATTN	Attention
AUG	August
AUTH	Authority
AUZ	Authorize
AUTO	Automatic
AUX	Auxiliary

Abbreviation or Signal	Signification
ETOV	Estimated time over
EET	Estimated elapsed time
EXREP	Expedite mail reply
EXSHI	Expedite shipment
FCLTY	Facility
FEB	February
FLD	Filed
FIGS	Figures
FIN	Finished
FLW	Follow
FURN	Furnish
FRM	Form
FWD	Forward
FQCY	Frequency
FQT	Frequent
FRI	Friday
FM	From
FTHR	Further, Farther
FIRAV	First available
FP	Flight Plan
FRO	Flight radio Officer
FYI	For your information
FOB	Fuel on board
FEXHA	Fuel supply exhausted
FENKN	Fuel supply unknown
FENTL	Fuel supply until (time)
FTMK	Full tanks
GAL	Gallon
GAS	Gasoline
GNL	General
GOVT	Government
GRDL	Gradual
GRD	Guard
GPH	Gallons per hour
GENOT	General notice
GQA	Get quick answer
GBA	Give better address
GBR	Give better reference
GSA	Give some address
GA	Go ahead
GPM	Groups per minute
HI	High
HWVR	However
HND	Hundred
IDNFY	Identify
IMPTC	Importance
IMPT	Important
IMPV	Improve
INADQT	Inadequate
INCL	Include
INCLV	Inclusive
INCOMP	Incomplete
INCOT	Incorrect
INS	Inches
INCR	Increase
INDFT	Indefinite
INDC	Indicate
INFO	Information
INTL	Initial
INOPV	Inoperative
INSP	Inspect
INSTL	Install
INSTR	Instruct
INTMT	Intermittent
INTNL	International
IFO	Interphone
INTRP	Interrupt
INTVL	Interval
IREG	Irregular
CL	I am closing my station
IIA	If incorrect advise
IISD	If incorrect service direct
IAW	In accordance with
INREQ	Informations requested
CONEX	In connection with
JAN	January
JUN	June
JUL	July
KEPOA	Keep this Office advised
LTTR	Latter
LTR	Later
LAT	Latitudee
LGT	Light
LTL	Little
LCL	Local
LCT	Locate
LV	Leave
LTNG	Lightning
LMT	Limit
LSN	Listen
LCIZ	Localize
LONG	Longitude
LWR	Lower
LR	Last message received by me was—no
LARTC	Last radio contcat
LS	Last message sent by me was ——— no
LETFO	Letter follows
LF	Line Feed (feed)
MNTNC	Maintenance
MAR	March
MAX	Maximum
MSG	Message
MIDN	Midnight
MISC	Miscellaneous
MIS	Missing
MSTK	Mistake
MOD	Moderate
MNTR	Monitor
MON	Monday
MRNG	Morning

Abbreviation or Signal	Signification
AVBL	Available
AWX	Account weather
ATD	Actual time of departure
ATA	Actual time of arrival
ADMAP	Advise by airmail as soon as practicable
ADNOK	Advice if not okay
ADCTC	Advise immediately upon reaching contact
ADZOF	Advise this Office
ACOM	Aircraft Communicator
AIRGI	Airman's Guide
ALNOT	Alert Notice
ACN	All Concerned notified
ALTF	Alternate Field
AFP	Alternate Flight Plan
ALSTG	Altimeter setting
APREQ	Approval requested
ASCOM	Assistant Aircraft communicator
AOCOM	Assistant overseas communicator
AAT	At all times
AUGRA	Authority granted
AUREQ	Authority is requested
BLC	Balance
BCM	Become
BGN	Begin
BLV	Believe
BTR	Better
BLKT	Blanket
BND	Bound
BCST	Broadcast
BRKN	Broken
BLTN	Bulletin
BOREQ	Broadcast requested
CNL	Cancel
CPTY	Capacity
CIG	Ceiling
CNTR	Contor
CHG	Change
CHNL	Channel
CRG	Charge
CK	Check
CKT	Circuit
CLKWE	Clockwise
CLZ	Close
CMCT	Communicate
CMCTN	Communication
CO	Company
CND	Condition
CRLR	Circular
CRLT	Circulate
CFM	Confirm
CNT	Connect
CSDR	Consider
CTC	Contact
CONT	Continue
CTL	Control
CPY	Copy
CRT	Correct
COR	Correction
CR	Carriage return
CF	Change of changing to ——— frequency
CACOM	Chief Aircraft Communicator
COCOM	Chief Overseas Communicator
CMN	Circuit message number
CILET	Circular letter
CAA	Civil Aeronautics Administration
COB	Close of Business
CLOTO	Close this Office
DT	Date
DEC	December
DEG	Degree
DEL	Delay
DLVR	Deliver
DLY	Delivery
DPT	Depart
DEP	Departure
DSTNL	Destination
DTRM	Determine
DCT	Direct
DSCONT	Discontinue
DISP	Dispatch
DSRGRD	Disregard
DVN	Division
DUPE	Duplicate
DTG	Date time group
DFQ	Day frequency
DI	Delay indefinite
ERY	Early
E	East
EBND	Eastbound
ENE	East Northeast
ESE	East Southeast
EMGCY	Emergency
ENG	Engine
EST	Estimate
XAM	Examination
XCP	Except
EXCHG	Exchange
XPC	Expect
XPDT	Expedite
XPS	Express
XTD	Extend
XTSN	Extension
XTSV	Extensive
EDA	Early departure authorized
EOD	Entered on duty
ETI	Estimated information
ETF	Estimated time of flight
ETE	Estimated time on route

Abbreviation or Signal	Signification
MTN	Mountain
REQ	Request
RQN	Requisition
RSV	Reserve
RET	Return
RTN	Routine
RX	Rush
RECON	Reference conversation
REINV	Reference invoice
ROLET	Reference letter from this office
RULET	Reference letter from your office
ROMES	Reference message from this office
RUMES	Reference message from your office
REPHO	Reference our telephone conversation
ROREQ	Reference requisition from this office
RUREQ	Reference requisition from your office
RT	Relay message to ———(nr) adressees)
RONGHT	Remaining overnight
RB	Repeated back (radio logs only)
REPMES	Reply by message
RPLVG	Report immediately upon leaving
RPRCH	Report immediately upon reaching
RQP	Request permission
RSOPN	Resumed operation
SFY	Satisfactory
SAT	Saturday
SEC	Second
SXN	Section
SEP	September
SER	Service
SVRL	Several
SGL	Signal
SIG	Signature
SGD	Signed
SEND	Southbound
SPL	Special
STD	Standard
STN	Station
STDY	Steady
STP	Stop
STM	Storm
STG	Strong
SUF	Sufficient
SUG	Suggest
SMRY	Summary
SUN	Sunday
SUPT	Superintendent
SYM	System
SOM	See our message
SYS	See your service
SACOM	Senior aircraft communicator
SOCOM	Senior overseas communicator
TKOF	Take off
TLFO	Telephone
TT	Teletype
TMP	Temperature
TMPRY	Temporary
TRML	Terminal
TRU	Through
TRUT	Throughout
THDR	Thunder
TSHWR	Thundershower
TSTM	Thunderstorm
THU	Thursday
TDA	Today
TMW	Tomorrow
TNGHT	Tonight
TWD	Toward
TFC	Traffic
TSFR	Transfer
XMSN	Transmission
TMT	Transmit
TVL	Travel
TRBL	Trouble
TUE	Tuesday
TXT	Text
TELRY	Telegraph reply
MANOP	Manual of operations
MF	Medium frequency
MOREPS	Monitor stations reports
NAV	Navigation
NEC	Neeessary
NOV	November
NBND	Northbound
NTFY	Notify
NMRS	Numerous
NFQ	Night frequency
NATR	No additional traffie reported
NORIV	No arrival report required
NDE	No delay expected
NFT	No filing time
NOFIN	No further information
NORDO	No radio
NORAC	No radio contact
NRD	No record of destination
NOREP	No reply received
NTR	No traffic reported
NSTP	Non stop
NOTAM	Notice to airmen
OCN	Occasion
OCR	Occur
OCT	October
OFT	Operate
ORGNL	Original
OTR	Other
OTRW	Otherwise
OVD	Overdue
OVNGT	Overnight
OIC	Officer-In-Charge
OCOM	Overseas communicator
OFA	Overseas Foreign

Abbreviation or Signal	Signification
OFACS	Overseas Foreign Acro. Cmctns Stn.
PARA	Paragraph
PAREN	Parenthesis
PTLY	Partly
PSGR	Passenger
PERF	Perforator
PMNT	Permanent
PMSN	Permission
PMT	Permit
PWR	Power
PBL	Preamble
PSNL	Personal
PRSNL	Personnel
PLN	Plan
PLS	Please
PSN	Position
PSBL	Possible
PROCDR	Procedure
PROCD	Proceed
PGRS	Progress
PX	Position report
POREPS	Post flight pilot reports
PO	Post Office
PAU	Present address unknown
PRIND	Present indication are
PPSN	Present position
QNTY	Quantity
QK	Quick
QOT	Quote
RACO	Radio communication out of order
RTG	Radio telegraph
RTN	Radio telephone
RECT	Receipt
RCV	Receive
RCRD	Record
RCMD	Recommend
REF	Reference
REYR	Reference your
RGRD	Regard
RGN	Region
RNWY	Runway
RGLR	Regular
RLA	Relay
RLS	Release
RLV	Relieve
RMN	Remain
RMRK	Remark
RMV	Remove
RPT	Repeat
RPL	Replace
RPRT	Report
UN	Unable
UNDLD	Undelivered
UNRD	Unheard
UNDTFD	Unidentified
UNK	Unknown
UNLGTD	Unlighted
UNL	Unlimited
UNEC	Unnecessary
UQOT	Unquote
UNR	Unraise
UNRDBL	Unreadable
UNSAT	Unsatisfactory
UNMON	Unable to monitor (Range or frequency) account
UADZ	Until advised
UFA	Until further advice
VRBL	Variable
VEL	Velocity
VFY	Verify
VIS	Visibility
VSB	Visible
VOL	Volume
VCHR	Voucher
WK	Weak
WED	Wednesday
WT	Weight
WBND	Westbound
WHT	What
WHN	When
WBTS	Whereabouts
WL	Will
WND	Wind
W	Word(s), Group(s)
WRK	Work
OK	We agree (or It is correct)
WXB	Weather Bureau
FINO	Weather report not filed for transmission
SUBFIX	We forward subject to correction
WILCO	Will comply
WPM	Words per minute
YDA	Yesterday
YRAUZ	You are authorized
YMD	Your message dated
YM	Your message
YRIZR	Your recommendation is requested

CHAPTER 6.—PENALTIES

6.1 *Penalties in respect of violation of any of the pertinent provisions of Republic Act No. 776, or other, or regulations.*—Any person who shall violate any provisions of these rules and regulations shall be dealt with in accordance with the provisions of Chapter VII, Republic Act No. 776, approved June 20, 1952.

CHAPTER 7.—EFFECTIVITY OF REGULATIONS

7.1 *Effectivity Date of Regulations.*—Thes regulations shall take effect upon its approval.

7.2 *Inconsistent Regulations.*—All rules and regulations inconsistent with the provisions hereof are hereby repealed.

7.8 *Rules and Regulations Repealed.*—These rules and regulations (Civil Air Regulations Part 10–C) supersede the provisions of Aeronautics Bulletin No. 7-B approved March 15, 1948 and revised January 1, 1949.

VICTOR H. DIZON
(Lt. Col., PAF)
Acting Administrator

Approved:

OSCAR LEDESMA
Secretary of Commerce and Industry

ADMINISTRATIVE ORDER No. 29

Pursuant to the provisions of Paragraph 9 of Section 32, Republic Act No. 776 approved June 20, 1952, the following rules and regulations are hereby promulgated for the observance of all personnel concerned.

This Administrative Order shall be known as Civil Air Regulations Part 10–B, governing Procedures for Aeronautical Telecommunications for Air Navigation and any reference to said title shall mean as referring to this Administrative Order.

INTRODUCTION

The object of the Aeronautical Telecommunication Service is to ensure the telecommunications and radio aids to air navigation necessary for the safety, regularity and efficiency of international air navigation.

Where appropriate, specific ITU Radio Regulations have been paraphrased in this document. Users of this Part should note that the Radio Regulations Annex of the International Telecommunications Convention (Atlantic City, 1947) is all embracing in character and, therefore, should be applied in all pertinent cases.

The Communication Procedures are to be used in conjunction with the Codes and Abbreviations in Part 10–C of the Civil Air Regulations and with such other codes and abbreviations as may be approved for use in communications.

CHAPTER I.—DEFINITIONS

When the following terms are used in these rules and regulations for communication procedures, they have the following meanings:

ADMINISTRATOR. The Administrator of the Civil Aeronautics Administration.

AERODROME CONTROL RADIO STATION. A station providing radio communication between an aerodrome control tower and aircraft or mobile aeronautical stations.

AERONAUTICAL BROADCASTING SERVICE. A broadcasting service intended for the transmission of information relating to air navigation.

AERONAUTICAL FIXED CIRCUIT. A circuit forming part of the AFS.

AERONAUTICAL FIXED SERVICE (AFS). A telecommunication service between specified fixed points provided primarily for the safety of air navigation and for the regular, efficient and economical operation of air services.

AERONAUTICAL FIXED STATION. A station in the aeronautical fixed service.

AERONAUTICAL FIXED TELECOMMUNICATION NETWORK (AFTN). An integrated world-wide system of aeronautical fixed circuits provided, as part of the Aeronautical Fixed Service, for the exchange of intelligence between the aeronautical fixed stations within the network.

Note.—"Integrated" is to be interpreted as a mode of operation necessary to ensure that intelligence can be transmitted from any aeronautical fixed station within the network to any other aeronautical fixed station within the network.

AERONAUTICAL FIXED TELECOMMUNICATION NETWORK CIRCUIT. A circuit forming part of the AFTN.

AERONAUTICAL MOBILE SERVICE. A radiocommunication service between aircraft stations and aeronautical stations, or between aircraft stations.

AERONAUTICAL RADIO NAVIGATION SERVICE. A radio-location service for the benefit of aircraft, intended for the determination of position or direction, or for obstruction warning in navigation.

AERONAUTICAL STATION. A land station in the aeronautical mobile service carrying on a service with aircraft stations. In certain instances, an aeronautical station may be placed on board a ship.

AERONAUTICAL TELECOMMUNICATION AGENCY. An agency responsible for operating a station or stations in the aeronautical telecommunication service.

AERONAUTICAL TELECOMMUNICATION LOG. A record of the activities of an aeronautical telecommunication station.

AERONAUTICAL TELECOMMUNICATION STATION. A station in the aeronautical telecommunication service.

AIR-TO-GROUND COMMUNICATION. One-way communication from aircraft to stations or locations on the surface of the earth.

AIRCRAFT STATION. A radio station located in an aircraft.

AIR-GROUND COMMUNICATION. Two-way communication between aircraft and stations or locations on the surface of the earth.

AIR-GROUND CONTROL RADIO STATION. An aeronautical telecommunication station having primary responsibility for handling communications pertaining to the operation and control of aircraft in a given area.

AIRCRAFT OPERATING AGENCY. The person organization or enterprise engaged in, or offering to engage in, an aircraft operation.

AUTOMATIC RELAY. A means of selective switching which causes automatic equipment to record and retransmit communications.

AUTOMATIC SWITCHING. A method by which automatic connection is made between two or more teletypewriter circuits.

AUTOMATIC TAPE RELAY. A method of communication whereby messages are received and retransmitted in teletypewriter tape form without manual intervention.

AUTOMATIC TELECOMMUNICATION LOG. A record of the activities of an aeronautical telecommunication station recorded by electrical or mechanical means.

BLIND TRANSMISSION. A transmission from one station to another station in circumstances where two-way communication cannot be established but where it is believed that the called station is able to receive the transmission.

BROADCAST. A transmission of information relating to air navigation that is not addressed to a specific station or stations.

CAA. The symbol used to designate the Civil Aeronautics Administration.

COMMUNICATION CENTER. An aeronautical fixed station which relays or retransmits telecommunication traffic from (or to) a number of other aeronautical fixed stations directly connected to it.

DUPLEX. A method in which telecommunication between two stations can take place in both directions simultaneously.

FREQUENCY CHANNEL. A continuous portion of the frequency spectrum appropriate for a transmission utilizing a specified class or emission.

Note.—The classification of emission is specified in the ITU Radio Regulations (Art. 2 RR 74–84 inclusive).

GROUND-TO-AIR COMMUNICATION. One-way communication from stations or locations on the surface of the earth to aircraft.

HOMING. The procedure of using the direction-finding equipment of one radio station with the emission of another radio station, where at least one of the stations is mobile, and whereby the mobile station proceeds continuously towards the other station.

INTERNATIONAL TELECOMMUNICATION SERVICE. A telecommunication service between offices or stations of different States, or between mobile stations which are not in the same State, or are subject to different States.

MANUAL SWITCHING. A method by which manual connection is made between two or more teletypewriter circuits.

MISROUTED TAPE RELAY MESSAGE. A tape relay message upon which the original tape perforating station has put an incorrect routing indicator.

MISSENT TAPE RELAY MESSAGE. A tape relay message which has the correct routing indicator, but which is inadvertently transmitted to a station not responsible for delivery, relay or off-net transfer.

MOBILE SURFACE STATION. A station in the aeronautical telecommunication service, other than an aircraft station, intended to be used while in motion or during halts at unspecified points.

NON-TYPING MECHANICAL FUNCTIONS. Functions of teletypewriter equipment other than printing that are initiated by a keyboard operation, for example, carriage return, figures, letters, line feed, space and the attention signal.

NOTAM. A notice, containing information concerning the establishment, condition or change in any aeronautical facility, service, procedures or hazard, the rapid distribution of which, to personnel concerned with aircraft flight operations, is essential for the safe and efficient operation of aircraft.

OFF-NET STATION. A station not on a tape relay network but which has access to the tape relay network by other means of telecommunication.

ON-NET STATION. A station forming part of a tape relay network.

PILOT TAPE. A specially prepared tape relating to the disposition of the message immediately following.

RADIO BEARING. The angle between the apparent direction of a definite source of emission of electromagnetic waves and a reference direction, as determined at a radio direction-finding station. A true radio bearing is one for which the reference direction is that of true North. A magnetic radio bearing is one for which the reference direction is that of magnetic North.

RADIO DIRECTION-FINDING STATION. A radio station intended to determine only the direction of other stations by means of transmission from the latter.

ROUTING INDICATOR. A place name abbreviation formulated to facilitate the routing of communications and assigned to the location of an aeronautical fixed station.

SEMI-AUTOMATIC TAPE RELAY. A method of communication whereby messages are received and retransmitted in teletypewriter tape form involving manual intervention in transfer of the tape from receiving reperforator to automatic transmitter.

SIMPLEX. A method in which telecommunication between two stations takes place in one direction at a time.

TAPE RELAY. A method of communication where-by messages are received and relayed in teletypewriter tape form.

TELECOMMUNICATION. Any transmission, emission or reception of signs, signals, writing, images and sounds or intelligence of any nature by wire, radio, vessel or other electro-magnetic systems.

TELETYPEWRITER TAPE. A tape on which signals are recorded in the 5-unit Start-Stop code by completely severed perforations (Chad Type) or by partially severed perforations (Chadless Type) for transmission over teletypewriter circuits.

TELETYPEWRITER TEST TAPE. A perforated type containing the identification of transmitting station followed by repetitions of the letters RY and a test consisting of letters and figures.

TRANSMISSION IDENTIFICATION TAPE. A prepared tape containing transmission identifications.

TRIBUTARY STATION. An aeronautical fixed station that may receive or transmit messages but which does not relay except for the purpose of serving similar stations connected through it to a communication center.

CHAPTER 2.—ADMINISTRATIVE PROVISIONS RELATING TO THE AERONAUTICAL TELECOMMUNICATION SERVICE.

2.1—DIVISION OF SERVICE

The Aeronautical Telecommunication Service is divided into four parts:

(1) Aeronautical fixed service
(2) Aeronautical mobile service
(3) Aeronautical radionavigation service
(4) Aeronautical broadcasting service

2.2—TELECOMMUNICATIONS—CHARGES

2.2.1 The exchange of communications necessary for ensuring safety of air navigation and the regularity of air traffic with aeronautical fixed stations and between aeronautical stations and aircraft stations shall be handled without specific message charge unless otherwise provided.

2.3—HOURS OF SERVICE

2.3.1 Stations shall give notification of its normal hours of service to the aeronautical telecommunication agencies designated to receive this information by other administrations concerned.

2.3.2 Whenever necessary and practicable, stations shall give notification of any change in the normal hours of service, before such a change is effected, to the aeronautical telecommunication agencies designated to receive this information by other administrations concerned. Such changes shall also whenever necessary and practicable, be included in Notices to Airmen.

2.3.3 If a station of the Aeronautical telecommunication service or an aircraft operating agency, requests a change in the hours of service of another station, such change shall be requested as soon as possible after the need for change is known. The station or aircraft operating agency requesting the change shall be informed of the result of its request as soon as possible.

2.4—SUPERVISION

2.4.1 The Civil Aeronautics Administration shall be responsible for ensuring that the aeronautical telecommunication service is conducted in accordance with CAR Parts 10–B and C.

2.4.2 Occasional infringements of the regulations contained herein, when not serious, should be dealt with by direct communication between the parties immediately interested either by correspondence or by personal contact.

2.4.3 When a station commits serious or repeated infringements, representations relating to them shall be made to the authority of the State to which the station belongs.

2.4.4 The Civil Aeronautics Administration shall exchange information regarding the performance of systems of communication, radio-navigation, operation and maintenance, unusual transmission phenomena, etc.

2.5—SUPERFLUOUS TRANSMISSION AND SECRECY OF COMMUNICATIONS

2.5.1 No willful transmission of unnecessary or anonymous signals or correspondence shall be made by any station of the aeronautical telecommunication service.

2.5.2 The unauthorized interception and divulging of the contents, or of mere existence, the publication or any use whatever of radio communications not intended for the general use of the public is prohibited.

2.6—INTERFERENCE

2.6.1 Stations shall take all possible precautions, such as the choice of frequency and time, and the reduction or, if possible, the suppression of radiation before making tests and experience. Any harmful intereference resulting from tests and experiments shall be eliminated as soon as possible.

2.6.2 If, on conclusion of a ten-second test additional test transmissions are further necessary, a listening watch of not less than ten-second duration shall be maintained before further tests are made.

2.6.3 On conclusion of all tests the signal $\overline{AR}$ (End of transmission—no answer expected) is to be sent to signify that test transmissions have concluded.

CHAPTER 3.—GENERAL PROCEDURES FOR THE AERONAUTICAL TELECOMMUNICATION SERVICE.

3.1—GENERAL

The Procedures outlined in this Chapter are general in character and shall be applied where appropriate to the other Chapters contained in this Part.

Note.—Detailed procedures, with special application to the service concerned, are contained in Chapters 4, 5, 6 and 7.

3.2—EXTENSIONS OF SERVICE AND CLOSING DOWN OF STATIONS

3.2.1 Stations of the acronautical telecommunication service shall extend their normal hours of service as required to provide for traffic necessary for flight operation.

3.2.2 Before closing down, a station shall notify its intention to all other stations with which it is in direct communication, confirm that an extension of service is not required and advise the time of re-opening if other than its normal hours of service.

3.2.3 When it is working regularly in a network on a common circuit, a station shall notify its intention of closing down either to the control station, if any, or to all stations in the network. It shall continue watch for two minutes and may then close down if it has received no call during this period.

3.3—Acceptance Transmission and Delivery of Messages

3.3.1 The responsibility for determining the acceptability of a message shall rest with the station where the message is originally handed in. Once a message is accepted, it shall be transmitted, relayed, and/or delivered in accordance with the priority classification and without discrimination or delay, on the understanding that the authority in control of any station through which a message passes, may make representations at a later date to the authority in control of the accepting station regarding any message which is considered unacceptable.

3.3.2 Unless otherwise provided for in the following paragraphs, only those messages coming within the categories specified in 4.1.4.1 to 4.1.4.8 inclusive, 4.1.4.1.0, 4.1.4.1.1 and 5.1.6 shall be accepted for transmission by the aeronautical telecommunication service.

3.3.3 Only messages for stations forming part of the aeronautical telecommunication service shall be accepted for transmission, except where special arrangements have been made with the telecommunication authority concerned.

3.3.4 An aircraft operating agency shall be entitled to use the aeronautical fixed telecommunication channels for traffic classified as "General aircraft operating agency messages" as prescribed in 4.1.4.9 within the capacity of such channels, until commercial telecommunication facilities are available to the aircraft operating agency sufficient to provide for efficient handling of such traffic over the route served by such aircraft operating agency. This procedure shall not require the addition of aeronautical fixed telecommunication channels solely to provide for the handling of such traffic. The determination of the sufficiency of such commercial facilities shall be in the judgment of the State providing the aeronautical fixed telecommunication service.

3.3.5 Messages handled for aircraft operating agencies shall be accepted only when handled in to the telecommunication station in the form prescribed herein and by an authorized representative of that agency, or when received from that agency over an authorized circuit.

3.3.6 For each station of the aeronautical telecommunication service from which messages are delivered to one or more aircraft operating agencies, a single office for each aircraft operating agency shall be designated by agreement between the Civil Aeronautics Administration and the aircraft operating agency concerned.

3.3.7 Stations of the aeronautical telecommunication service shall be responsible for delivery of messages to addressee(s) located within the boundaries of the aerodrome(s) served by that station and beyond those boundaries only to such addressee(s) as may be agreed by special arrangements with the CAA.

3.3.8 Messages shall be delivered in the form of a written record, except where facilities for voice recording are in use.

3.3.8.1 In cases where telephone or loudspeaker systems are used without recording facilities for the delivery of messages, a written copy shall be provided as confirmation of delivery as soon as possible.

3.3.9 Messages received by an aeronautical station from aircraft in the form prescribed in 5.2.1 and 5.3.5 and which require transmission over the aeronautical fixed service, shall be prepared in the form prescribed in 4.1.3 prior to onward transmission over the fixed service.

2.4—Time System

3.4.1 Greenwich Mean Time (GMT) shall be used by all stations in the aeronautical telecommunication service. Midnight shall be designated as 2400 for the end of the day and 0000 for the beginning of the day.

3.4.2 A date-time group shall consist of six figures, the first two figures representing the date of the month and the last four figures the hours and minutes in GMT.

3.4.3 When transmitting time, only the minutes of the hour should normally be required. Each digit should be pronounced separately. However, the hour should be included when any possibility of confusion is likely to result.

Example:

Time	Statement
0920 (9.20 A.M.)	TOO ZE-RO or ZE-RO NIN-or TOO ZE-RO
1643 (4.43 P.M.)	FOW-or TREE or WUN SIX FOW-or TREE

3.5—Record of Communications

3.5.1. A telecommunication log, written or automatic, shall be maintained in each station of the aeronautical telecommunication service except that an aircraft station, when using radiotelephony in direct communication with an aeronautical station, need not maintain a telecommunication log.

Note.—The telecommunication log will serve as a protection, should the operator's watch activities be investigated. It may be required as legal evidence.

3.5.1.1 When a record is maintained in an aircraft station, either in a radiotelephone log or elsewhere, concerning distress communications, harmful interference, or interruption to communications, such a record shall be associated with in-

formation concerning the time and the position, and altitude of the aircraft.

3.5.2 In written logs, entries shall be made only by operators on duty except that other persons having knowledge of facts pertinent to the entries may certify in the log the accuracy of operator's entries.

3.5.3 All entries shall be complete, clear, correct and intelligible, in ink, indelible pencil or typewritten. Superfluous marks or notations shall not be made in the log.

3.5.4 In written logs, any necessary correction in the log shall be made only by the person making the initial entry. The correction shall be accomplished by drawing in ink or indelible pencil or typing a single line through the incorrect entry, initialling same, recording the time and date of correction. The correct entry shall be made on the next line after the last entry.

3.5.5 Written logs shall be retained for a period of at least 90 days and automatic telecommunication logs for a period of at least 30 days. When logs are pertinent to inquiries or investigation they shall be retained for longer periods until it is evident that they will be no longer required.

3.5.6 The following information shall be entered in written logs:

(*a*) the name of the agency operating the station;

(*b*) the identification of the station;

(*c*) the date;

(*d*) the time of opening and closing the station;

(*e*) the signature of each operator, with the time the operator assumes and relinquishes a watch;

(*f*) the frequencies being guarded and type of watch (continuous or scheduled) being maintained on each frequency;

(*g*) except at intermediate mechanical relay stations where the provisions of this paragraph need not be complied with, a record of each communication, test transmission, or attempted communication showing text of communications, time communication completed, station(s) communicated with, and frequency used. The text of the communication may be omitted from the log when copies of the messages handled are available and form part of the log;

(*h*) all distress communications and action thereon;

(*i*) a brief description of communication conditions and difficulties, including harmful interference. Such entries should include, whenever, practicable, the time at which interference was experienced, the character, radio frequency and identification of the interfering signal;

(*j*) a brief description of interruption to communications due to equipment failure or other troubles, giving the duration of the interruption and action taken;

(*k*) such additional information as may be considered to be of value as a part of the record of the station's operations.

3.5.7 *Endorsement of messages*

3.5.7.1 *Transmitted messages.*—Transmitted messages shall show the date and time of transmission, operator's identification, circuit message number and call sign of the receiving station.

3.5.7.2 *Received messages.*—Received messages shall show the receiving operator's identification, and the date and time at which reception was completed.

3.5.8 *Recording of unusual delays, failures to receive, etc.*—Unusual circumstances may arise occasionally which require explanation regarding delay of a message, failure to receive acknowledgement of receipt, etc. In such cases, the operator shall explain the circumstances briefly on the face of the message form, or, if necessary due to lack of space, on the reverse of the message form.

3.6—Establishment of Radio Communication

3.6.1 All stations shall answer calls directed to them by other stations in the aeronautical telecommunication service and shall exchange communications on request.

3.6.2 All stations shall radiate the minimum power necessary to ensure a satisfactory service.

3.6.3 Before transmitting, every station shall listen for a period long enough to satisfy itself that it will not cause harmful interference. If such interference is likely the station shall await the first break in transmission with which it might interfere, except that it may interrupt the transmissions in progress in the circumstances prescribed in 3.9.5.

3.7—Use of Abbreviations and Codes

3.7.1 Only the abbreviations approved by the ICAO for use in aeronautical telecommunication service shall be used, except that in the text and signature of messages the use of other abbreviations may be agreed between the originator and the aeronautical telecommunication agency accepting the message for transmission.

3.7.2 Where special codes or abbreviations are used in the text and signature of messages, the aeronautical telecommunication agency accepting the message for transmission shall be provided by the originator with copies of the code or abbreviation list.

3.8—Text

3.8.1 The text of messages shall be drafted in plain language or in code, as prescribed in 3.7. The originator shall avoid the use of plain language when abbreviation by an appropriate code is practicable. Words and phrases, which are not essential, such as expressions of politeness, shall not be used.

3.8.2 All messages shall be legible and in the following characters:

Letters: A B C D E F G H I J K L M N O P Q R S T U V W X Y Z
Figures: 1 2 3 4 5 6 7 8 9 0
Other signs: Oblique (/)
Full stop, period, or decimal point (.).

Punctuation marks or signs, other than those listed above, shall not be used in messages unless absolutely necessary for understanding the text. When used, they shall be spelled, except that the question *mark*, with procedure or Q signals, shall be indicated by the group IMI.

3.8.3 Roman numerals shall not be employed. If the originator of a message wishes the addressee to be informed that roman figures are intended, the arabic figure or figures shall be written and preceded by the word "ROMAN".

3.9—MANUAL RADIOTELEGRAPH PROCEDURE

3.9.1—*Transmitting Technique*

Each operator shall transmit each character clearly and distinctly and with proper separation. The speed of transmission shall be governed by the prevailing receiving conditions and the capability of the receiving operator.

3.9.2—*Calling*

3.9.2.1 Before calling, a station shall satisfy itself that it will not cause harmful interference to transmission in progress (see 3.6.3.).

3.9.2.2. *Single call.*—The calling station shall transmit in the following order the radio call sign of the station called once, the word DE, its own radio call sign once, and the appropriate priority prefix. When the conditions for establishing contact are difficult, the radio call signs may be transmitted as many as three times.

3.9.2.3 *Multiple call.*—When calling more than one station, the radio call signs of the stations called shall be transmitted in any convenient sequence and preceding the word DE.

3.9.2.4 When several stations are using a common frequency, unanswered calls shall not be repeated more frequently than once per minute and then only when such calls do not interfere with communications in progress.

3.9.2.5 A call should be followed by the appropriate Q signal, indicating the frequency which the calling station proposes to use for transmission if other than that on which the call is made and if the communication will thereby be facilitated.

3.9.2.6 *General call.*—Two types of general call to all stations shall be used and recognized:

(*a*) the call CQ followed by the letter K (general call with a request for reply);

(*b*) the call CQ not followed by the letter K (general call without a request for reply).

3.9.2.7 *Call to several stations without request for reply.*—The call CP followed by two or more radio call signs shall be used to call specified stations without a request for reply.

3.9.3—*Replying*

3.9.3.1 When the called station is ready to copy the proffered message, it shall reply by transmitting the radio call sign of the calling station once, the DE its own radio call sign once, followed by the signal K. When no confusion is likely to result, the call sign of the calling station and the word DE may be omitted.

3.9.3.2 When the called station is not ready to copy the proffered message, it shall transmit, if and when practicable, its radio call sign, and the signal $\overline{\text{AS}}$. The signal $\overline{\text{AS}}$ may be followed by a figure representing the approximately delay in minutes or by a brief explanation of the reason for the delay.

3.9.3.3 Stations replying to a multiple call should answer, as a general rules, in the order in which they were called.

3.9.3.4 When a station hears a call without being certain that the call is intended for it, it shall not reply until the call has been repeated and is understood.

3.9.3.5 When a station is called, but is uncertain of the radio call sign of the calling station, it shall reply immediately by transmitting the signal QRZ $\overline{\text{IMI}}$ followed by its own call sign.

3.9.3.6 If the calling station has indicated that it intends to transmit on a frequency other than that on which it made the call, the station called, if in agreement, shall reply by transmitting the appropriate Q signal to indicate that it is changing to the frequency announced.

3.9.3.7 If the station called is not in agreement to use, either for transmission or reception, the frequency announced by the calling station, it shall make known by means of the appropriate Q signal the frequency or frequencies it wishes to use.

3.9.4—*Message Transmission Procedure*

3.9.4.1 The signal $\overline{\text{BT}}$ shall be transmitted immediately after the last element of each of the following:

(*a*) the heading
(*b*) the preamble
(*c*) each line of the address
(*d*) the text (if the signature is used)

3.9.4.2 When a number of messages are to be transmitted in series, the transmitting station shall indicate at the end of each message in the series, the priority prefix of the following message; this prefix shall follow immediately after the signal $\overline{\text{AR}}$ in each message.

3.9.4.3 Messages shall be transmitted exactly as written. Abbreviations shall not be substituted for plain language or plain language substituted for abbreviations.

3.9.5—*Interruption of Transmissions in Progress*

3.9.5.1 *Distress, urgency and safety messages.*—A station having a distress, urgency or safety communication to transmit shall be entitled to interrupt at any time any transmission in progress which is of lower priority. The station may make any transmission which it believes is necessary to effect this interruption. Immediately after the interruption is effected on appropriate signal indicating the existence of a distress, urgency or safety condition shall be transmitted by the interrupting station. Thereafter communication shall be conducted in the manner indicated by the prevailing conditions.

3.9.5.2—*Messages other than distress, urgency or safety messages*

3.9.5.2.1 A station having a message of a higher priority than a transmission in progress shall be entitled to interrupt this transmission at the end of a message. The interrupting station shall not continue communication longer than necessary to transmit the priority messages for which interruption is made.

3.9.5.2.2 A station shall not be entitled to interrupt while the transmission of a message is in progress except in the following circumstances:

(1) When the period of transmission of the message is of long duration and the station desiring to interrupt has a message of higher priority to transmit;

(2) When it is desired to inform the transmitting station that the receiving station cannot receive the transmission in progress;

(3) When it is desired to request the transmitting station to repeat a portion of the message being received by the station interrupting;

(4) When special circumstances make interruption desirable.

3.9.5.3 *Break-in procedure.*—Transmission shall be, interrupted by transmitting the call sign of the station to be interrupted, the signal BK followed by a short listening period to determine whether interruption has been accomplished.

3.9.5.3.1 If these attempts fails to accomplish the desired interruption, the station breaking in should refrain from further attempts until the message being transmitted is completed.

3.9.6—*Corrections and Repetitions*

3.9.6.1 *During transmission.*—When errors occur during the transmission of a word or group, the transmitting operator shall transmit the error signal consisting of not less than eight dots; the last word or group correctly transmitted before the error; the corrected word or group; then continue with the transmission.

3.9.6.2 *After transmission and before acknowledgment of receipt*

3.9.6.2.1 If, after a message has been transmitted but before acknowledgment of receipt has been obtained, the transmitting operator requires to repeat or correct any portion of the message, he shall do so by means of the appropriate abbreviations.

3.9.6.2.2 When an error or omission is noticed by the receiving operator before acknowledgment of receipt has been given, or when a message has not been completely or correctly received, corrections shall be requested by means of the appropriate abbreviations.

The following example illustrates the application of this procedure:

IMI SIG

3.9.6.2.3 *After acknowledgment of receipt.*—After acknowledgment of receipt, corrections and repetitions shall only be obtained by the use of service messages (see 4.1.4.10).

3.9.6.3. *Queries by receiving station requiring reference by transmitting station to originator or other station (CTF Procedure).*—If the transmitting station has to refer to the originator or previous station to answer a query by the receiving station, it shall indicate this to the receiving station by the abbreviation CTF. The receiving station shall then retransmit or deliver the message with the abbreviation CTF followed by the portion queried inserted in the message ending. The correction shall be made by the use of a service message, (see 4.1.4.10).

3.9.7—*End of Transmission and End of Work*

3.9.7.1 *Signal for the end of transmission*

3.9.7.1.1 The transmission of a single message shall be terminated by the signal AR, and the letter K.

3.9.7.1.2 When messages are being transmitted in a series, the end of each message shall be indicated by the signal AR and the end of the series by the letter K.

3.9.7.2 *End of work*

3.9.7.2.1 The end of work between two stations shall be indicated by each of them by means of the signal VA, followed by its own call sign.

3.9.7.2 The signal VA shall also be used:

(*a*) when the transmission of messages of a general nature, meteorological information and general safety notices is finished;

(*b*) when transmission is ended in long-distance radiotelegraph and telecommunication services with

deferred acknowledgment of receipt or without acknowledgement of receipt.

3.9.7.3 Stations communicating regularly with each other may dispense with the use of the signals $\overline{AR}$, K, $\overline{VA}$, etc. when no confusion is likely to arise.

CHAPTER 4.—AERONAUTICAL FIXED SERVICES

4.1—*General*

4.1.1—*Routing of Messages*

4.1.1.1 All communications shall be routed by the most expeditious route available to effect delivery to the addressee.

4.1.1.2 Alternative pre-determined routing arrangements shall be made, when necessary, to expedite the movement of communication traffic.

4.1.1.3 As soon as it is apparent that it will be impossible to dispose of traffic over the aeronautical fixed service within a reasonable period, and when the traffic is held at the station where it was filed, the originator shall be consulted regarding further action to be taken, unless arrangements exist whereby delayed traffic is automatically diverted to commercial telecommunication services without reference to the originator.

Note.—The expression "reasonable period" means a period of time such that it seems probable that the traffic will not be delivered to the addressee within any fixed transit period applicable to the category of traffic concerned, or, alternatively, any predetermined period agreed between originators and the telecommunication station concerned.

4.1.2—*Failure of Communications*

4.1.2.1 Should communication on a normal fixed service circuit fail, the station concerned shall attempt to re-establish contact as soon as possible.

4.1.2.2 If contact cannot be re-established within a reasonable period on the normal fixed service circuit, an appropriate alternative circuit should be used. If possible, attempts should be made to establish communication on any authorized fixed service circuit available.

4.1.2.2.1 If these attempts fail, use of any available air-ground frequency shall be permitted only as an exceptional and temporary measure when no interference to aircraft in flight is assured.

4.1.2.2.2 When a radio circuit fails due to signal fade-out or adverse propagation conditions, a receiving watch shall be maintained on the regular fixed service frequency normally in use. In order to re-establish contact on this frequency as soon as possible, a series of the letter V followed by the call sign of the transmitting station shall be transmitted at regular intervals for periods of not longer than three minutes.

4.1.2.3 A station experiencing a circuit or equipment failure shall promptly notify other stations with which it is in direct communication if the failure will affect traffic routing by those stations. Restoration to normal shall also be notified to the same stations.

4.1.3—*Composition of Messages*

4.1.3.1 *Component parts.*—All messages shall comprise in the following order:

(*a*) heading
(*b*) preamble
(*c*) address
(*d*) text
(*e*) signature group (if used)
(*f*) ending (if any).

4.1.3.2 *Heading*

4.1.3.2.1 The heading shall comprise in the following order (see also 4.4.4.21):

(*a*) transmission identification (except as provided for in 4.4.4.15.3);
(*b*) routing line (tape relay operation only);
(*c*) transmitting instructions (if required).

4.1.3.2.2 *Transmission identification.*—The elements of a transmission identification as prescribed herein shall appear in the following sequence:

(*a*) transmitting station identification or circuit identification;
(*b*) channel identification letter;
(*c*) circuit message number.

4.1.3.2.2.1 *Transmitting station identification or circuit identification.*—A transmitting station identification or circuit identification shall be included in all messages.

4.1.3.2.2.2 *Channel identification.*—Where two or more channels are maintained between two stations and a circuit message number is employed a channel identification letter shall precede the circuit message number to indicate the channel employed.

4.1.3.2.2.3 *Circuit message number.*—In order to provide a check on the continuity of service, circuit message number shall be assigned by telecommunication stations to all messages transmitted directly from one station to another except that other arrangements shall be permitted between stations concerned in the case of automatic relay, teletypewriter circuits or other special conditions.

4.1.3.2.2.3.1 When circuit message numbers are used, a separate series of these numbers shall be assigned in sequence for each circuit and a new series of circuit message shall be started daily at 0000 hour.

Note.—The following examples illustrate the application of this procedure:

DUM 114 (This indicates the 144th message transmitted from DUM to the receiving station.)
DUM A22 (This indicates the 22nd message transmitted from DUM to the receiving station on Cannel A.)

4.1.3.2.3 *Transmitting instructions*

4.1.3.2.3.1 Where predetermined routing is not employed, transmitting instructions should be included to indicate responsibility for further relay or delivery of multiple address messages.

4.1.3.2.3.2 When used, transmitting instructions shall comprise the place names abbreviation(s) for which the receiving station is responsible for effecting further relay or delivery.

Note.—The following example illustrates the application of this procedure:

DUM sends to KCD the following:

DUM114 KAWK KHNL (This indicates that KCD is responsible for the transmission of the message to both KAWK and KHNL.

4.1.3.2.3.3 Relay stations, other than tape relay stations, shall amend the transmitting instructions to indicate to the new receiving stations only those destinations for which the new station or stations are responsible.

Note.—The following example illustrates the application of this procedure:

If the receiving station in the example following 4.1.3.2.3.2 (KCD) is responsible for disposal of the message by relay to two different stations KAWK (WAKE) and KHNL (Honolulu) this shall be accomplished in accordance with the following:

(To Wake) KCD KAWK
(To Honolulu) KCD15 KHNL

Note.—This gives positive indication to each of the receiving stations that they are responsible only for local delivery or further relay to those destinations shown in the heading. This procedure will avoid all possibility of duplication of transmission.

4.1.3.3 *Preamble.*—The Preamble shall comprise in the following order:

(*a*) place of origin (abbreviation)
(*b*) filing number
(*c*) word count (optional)
(*d*) date and time of filing.

4.1.3.3.1 *Place of origin.*—The place of origin shall be indicated by the ICAO Place Name abbreviation of the location at which the message is originated. Where no ICAO Place Name abbreviation is assigned to the place of origin, the name of the place shall be entered in plain language or in a form that will permit its identification by the receiving station and by any relay station.

4.1.3.3.1.1 When the place of origin of a message is an aircraft station and the message requires retransmission over the aeronautical fixed service, the identification of the aircraft shall be entered as the first place of origin and shall be followed by the oblique sign and the place name abbreviation of the station first transmitting the message over the aeronautical fixed service.

4.1.3.3.2 *Filing number.*—Each message handed in shall be assigned a filing number by the station of origin or the originator in accordance with local arrangements to avoid duplication of filing numbers. One filing number shall be assigned regardless of place of destination or the number of addressees.

4.1.3.3.3 *Word count.*—When used, the word count shall indicate the number of groups or words in the *address*, *text* and *signature*. Each group or word shall count as one, irrespective of its composition or length. Separate signs other than letters and figures shall not be counted.

4.1.3.3.4 *Date and time of filing.*—The date and time of filing a message for transmission shall be indicated by the date-time group.

4.1.3.4 *Address*

4.1.3.4.1 The address shall comprise in the following order:

(*a*) priority prefix (except as provided in 4.1.4.1 and 4.1.4.2)
(*b*) name of organization addressed (abbreviation)
(*c*) place of destination (abbreviation).

Note.—The following example illustrates the application of this procedure:

FF PALDUMA (This indicates a message with the priority FF for delivery to PAL at Manila [DUMA]

4.1.3.4.1.1 When a message is transmitted over the aeronautical fixed service and is addressed to an aircraft in flight, the identification of the aircraft shall precede the Plane Name Abbreviation of the aeronautical station required to re-transmit the message in the aeronautical mobile service.

Note.—The following example illustrates the application of this procedure:

FF DZPEJ DUMA (This indicates a message with priority FF for onward transmission by Manila (DUMA) to aircraft DZPEJ via the aeronautical mobile service).

4.1.3.4.1.2 If the aeronautical station shown in the address as being responsible for transmitting the message to the aircraft station in the aeronautical mobile service is no longer in communication with that aircraft, the aeronautical station concerned should forward the message to another aeronautical station known or believed to be in communication with the aircraft. If any aeronautical station does not have any means of disposing of the message in the manner described above, the originator should be notified of the inability to deliver the message. Such notification should include, where practicable, information concerning the aeronautical stations through which delivery was attempted.

4.1.3.4.2 *Priority prefix.*—Every message shall be assigned a priority prefix by the originator in

accordance with the provision of 4.1.4.3, 4.1.4.9 and 4.1.5.

4.1.3.4.3 *Multiple address messages*

4.1.3.4.3.1 Acceptance as a single message of a message intended for two or more addressees, whether at one station or at different stations, is permitted.

4.1.3.4.3.2 The address of multiple address messages shall be composed as shown below:

(*a*) Multiple organizations with the same destination:

(i) priority prefix
(ii) names of the organizations addressed (abbreviations)
(iii) place of destination (abbreviation)

(*b*) Common organization with different destinations:

(i) priority prefix
(ii) name of the organization addressed (abbreviation)
(iii) places of destination (abbreviations)

(*c*) Common organization with different destinations:

(i) priority prefix
(ii) names of the organizations addressed (abbreviations)
(iii) places of destination (abbreviations)

(*d*) Combination of different organizations and destinations:

(i) priority prefix
(ii) name/s of the organizations/s addressed (abbreviation/s) at one destination
(iii) the place of destination referred to in (ii) (abbreviation)
(iv) name/s of the organization/s addressed (abbreviation/s) at second destination
(v) the place of destination referred to in (iv) (abbreviation)
(vi) items (iv) and (v) amended for the organization/s and destination name/s respectively (abbreviation/s) are repeated in sequence.

Note.—The following examples illustrates the application of these procedures:

(*a*) FF PAL ACC MET DUMA

[This indicates a message with the priority FF for delivery to PAL Area Control Center (ACC) and the meteorological service (MET) at Manila (DUMA]

(*b*) FF PAL DUMA APKC VTSF

[This indicates a message with the priority FF for delivery to PAL at Manila (DUMA), Karachi (APKC) and New Delhi (VTSF)]

(*c*) JJ ACC PAL DUMA KGUM

[This indicates a message with the priority JJ for delivery to Area Control Center (ACC) and PAL at Manila (DUMA) and Guam (KGUM)]

(*d*) JJ PAL MET DUMA
PAA KGUM KHNL
MET NWA JPNZ KDNA

[This indicates a message with the priority JJ for delivery to PAL and the meteorological office (MET) at Manila (DUMA); for delivery to PAA at Guam (KGUM) Honolulu (KHNL); and meteorological office (MET) and NWA at Tokyo (JPNZ) and Kadena (KDNA)]

4.1.3.4.3.3 When a multiple address message is assigned two different priorities the appropriate priority prefixes shall precede the addresses concerned.

Note.—The following example illustrates the application of this procedure:

FF ACC VSHK HSBK
JJ PAA PAL KGUM

[This indicates a message with the priority FF for delivery to Area Control Center (ACC) at Hongkong (VSHK) and Bangkok (HSBK); and priority JJ for delivery to PAA and PAL at Guam (KGUM)]

4.1.3.5 *Text*

4.1.3.5.1 When an originator's reference is used it shall appear at the beginning of the text, and shall not consist of more than ten characters.

4.1.3.5.2 The text of messages shall be drafted in accordance with 3.8.1.

4.1.3.6 *Signature group*

4.1.3.6.1 The signature group shall consist of either a signature or date-time group or both.

4.1.3.6.1.1 When a signature is used in the signature group, it shall be the abbreviated name of the organization which originated the message, followed, if necessary, by an abbreviation representing a department or division of the organization or the last name of an individual.

4.1.3.6.1.2 When a date-time group is used in the signature group, it shall indicate when the message was written.

4.1.3.7 *Ending.*—When used, the ending shall comprise in the following order:

(*a*) confirmations (if any).
(*b*) corrections (if any).

4.1.3.7.1 *Confirmation.*—Any confirmation of a portion of the message shall be preceded by the abbreviation CFM.

4.1.3.7.2 *Correction.*—Any correction of a portion of the message shall be preceded by the abbreviation COR.

4.1.4—*Categories of Messages*

Subject to the provisions of 3.3, the following categories of messages shall be handled by the aeronautical fixed service:

(*a*) distress messages and distress traffic
(*b*) messages for the safety of human life
(*c*) flight safety messages
(*d*) meteorological messages
(*e*) flight regularity messages
(*f*) aeronautical administrative messages
(*g*) NOTAM—Class 1 distribution
(*h*) reservation messages
(*i*) general aircraft operating agency messages (see 3.3.4)
(*j*) service messages.

4.1.4.1 *Distress messages and distress traffic.*—Distress messages and distress traffic shall be preceded by the letters SOS, in lieu of a priority prefix.

Note.—Distress messages and distress traffic are defined in 5.4.6 and 5.4.11.

4.1.4.2 *Messages for the safety of human life.*—Messages for the safety of human life shall be preceded by the letters SVH, in lieu of a priority prefix.

Note.—Messages for the safety of human life comprise a category of message corresponding to urgency and safety messages in the mobile service. (see 5.5 and 5.6).

4.1.4.3 *Flight safety messages.*—Flight safety messages shall comprise the following:

Type of message	Priority prefix
(1) Air Traffic Control messages	
(*a*) Air Traffic Control messages concerning aircraft in flight or about to depart	FF
(*b*) Departure messages	FF
(*c*) Flight plan/departure message	FF
(*d*) Flight plan messages	FF
(*e*) Transfer of control messages	FF
(*f*) Arrival messages	GG
(*g*) Messages concerning cancellation of flight	GG
(*h*) Messages concerning delayed departure	GG
(2) Position reports from aircraft	FF
(3) Messages originated by an aircraft operating agency, of immediate concern to an aircraft in flight or to an aircraft about to depart	FF
(4) Meteorological advice of immediate concern to aircraft in flight or about to depart (individually communicated or for broadcast)	FF

4.1.4.4 *Meteorological messages.*—Meteorological messages shall comprise the following:

Type of message	Priority prefix
(1) Messages containing meteorological forecasts	GG
(2) Messages containing exclusively meteoroligical observations	JJ
(3) Other meteorological messages exchanged between meteorological offices	JJ

4.1.4.5 *Flight regularity messages.*—Flight regularity messages shall comprise the following:

Type of Message	Priority prefix
(1) Load messages, i.e. messages containing details of the number of passengers and crew, weight of cargo and other data required for weight and balance computation. Other remarks essential to the rapid clearance of the load from the aircraft may be included	GG

Note.—The load messages specified above are only acceptable when addressed to the point of intended landing and to not more than two other addressees concerned in the general area of the route segment of the flight to which the message refers.

Type of Message	Priority prefix
(2) Messages concerning changes in aircraft operating schedules to become effective within 72 hours after the message is filed	JJ
(3) Messages concerning the servicing of aircraft, when the aircraft is en route or scheduled to depart within 48 hours	JJ
(4) Messages concerning changes in collective requirements for passengers, crew, and cargo, caused by unavoidable deviations from normal operating schedules and necessary for flight regularity in the case of aircraft en route or about to depart. Individual requirements of passengers or crew are not admissible in this type of message	JJ
(5) Messages concerning non-routine landings to be made by an aircraft en route or about to depart	JJ
(6) Messages concerning parts and materials urgently required for the operation of aircraft en route or scheduled to depart within 48 hours	JJ
(7) Messages concerning the pre-flight arrangement of air navigation services, and operation servicing from non-scheduled or irregular operations of aircraft, filed within 48 hours of proposed time of departure	JJ

4.1.4.6 *Aeronautical administrative messages.*—Aeronautical administrative messages shall comprise the following:

Type of message	Priority prefix
(1) Messages regarding the operation or maintenance of facilities essential for the safety or regularity of aircraft operation	JJ
(2) Messages essential to the efficient functioning of aeronautical telecommunication services	JJ
(3) Messages exchanged between Government Civil Aviation Authorities relating to aircraft operation	JJ

4.1.4.7 *NOTAMS—Class 1 distribution (Priority Prefix JJ).*—NOTAM for Class 1 distribution should be coded, when possible, in the NOTAM Code contained in the current edition of the NOTAM Code published by ICAO.

4.1.4.8 *Reservation Messages (Priority Prefix JJ).*—Reservation messages shall comprise messages originated by aircraft operating agencies to secure, aboard public transport aircraft scheduled to depart within 72 hours after the message is filed, the individual accommodation of passengers and/or space or weight capacity for goods. In order to distinguish, for the purposes of accounting, this type of traffic from other messages bearing the priority prefix JJ, the letters RES shall be added to the priority prefix in the address.

4.1.4.9 *General Aircraft Operating Agency Messages (Priority Prefix LL).*—General aircraft operating agency messages shall comprise messages originated by aircraft operating agencies other than those prescribed in 4.1.4.1 to 4.1.4.8 inclusive, which, by virtue of their importance, have a direct bearing on the efficient and economic conduct of the day-to-day operation of international air transport and subject to the following:

(i) This category shall include messages of the types prescribed in 4.1.4.5.2 to 4.1.4.5.7 which do not conform to the time limitation prescribed in those sub-paragraphs;

(ii) These messages shall only be acceptable when addressed to offices or representatives of aircraft operating agencies;

(iii) The following type of messages shall not be acceptable this category:

(*a*) Third party messages;

(*b*) Messages addressed to parties other than aircraft operating agencies or their representatives.

4.1.4.10 *Service messages (SVC).*—

4.1.4.10.1 Service messages shall be exchanged between aeronautical telecommunication stations to obtain information or verification concerning other messages which appear to be incorrect, confirming circuit message number, etc.

4.1.4.10.2 The text of all service messages should be as brief as possible.

4.1.4.10.3 Service messages shall be assigned an appropriate priority prefix.

4.1.4.10.3.1 When service messages refer to messages previously transmitted, the priority prefix assigned should be that used for the message to which they refer.

4.1.4.10.4 A service message shall be identified by the transmission of the abbreviation SVC as the first item of the preamble.

4.1.4.10.5 When a service message refers to a message previously handled, reference to the previous message shall be made by use of the appropriate message number and date, or other necessary information required to identify the message.

4.1.4.10.6 Service messages correcting errors in transmission shall be addressed to all the telecommunication stations of destination that were affected by the incorrect transmission.

4.1.4.10.7 A reply to a service message shall be addressed to the station which originated the initial service message and shall be composed in the same form.

4.1.4.10.8 A copy of each service message pertaining to traffic previously handled shall be attached to the file copy of the message to which it refers.

4.1.4.11 *Transmission of duplicate messages.*—When a message that has previously been transmitted correctly has to be duplicated for any purpose of the communications service, it shall be transmitted with the advice that it is a duplicate; this shall be indicated by the transmission of the abbreviation DUPE as the first item of the preamble. Messages duplicated shall carry new circuit message numbers but shall always bear the original date-time group.

4.1.5—*Order of Priority*

4.1.5.1 The order of priority for the transmission of messages in the aeronautical fixed service shall be as follows:

(1) SOS
(2) SVH
(3) DD (See 4.1.5.3)
(4) FF
(5) GG
(6) JJ
(7) LL

4.1.5.2 Messages having the same priority prefix shall be transmitted in the order in which they are received for transmission.

4.1.5.3 When justified by the requirement for special handling, messages in the fixed service shall be assigned the priority DD in place of the normal priority prefix.

4.1.5.3.1 When the priority prefix DD is used, the person authorizing its use shall sign the message to indicate the responsibility for assigning

the priority. This signature shall not be transmitted. The priority prefix DD shall not be used for the messages described in 4.1.4.8 and 4.1.4.9.

4.1.5.4 Messages entitled to bear the priority prefix FF and which are originated by or addressed to authorities other than air traffic control shall be assigned a lower priority prefix if the lower priority will serve the intended purpose. This category of message shall not be assigned a higher priority except under the provisions of 4.1.5.3.

4.1.5.5 Messages entitled to bear the priority prefix FF and which are originated by or addressed if the lower priority will serve the intended purpose. These categories of messages shall not be assigned a higher priority except under the provisions of 4.1.5.3.

4.1.5.6 Where practicable and desirable, two different priorities should be employed in multiple address messages to enable a lower priority to be assigned to those addressee(s) for which the lower priority will serve the intended purpose.

4.2—*Manual Radiotelegraph Procedure*

4.2.1—*Acknowledgement of Receipt.*—A receiving operator shall not transmit an acknowledgement of receipt until he is satisfied that the received message shall be acknowledged by transmitting the radio call sign of the station acknowledging receipt followed by the signal R, the message number and the signal $\overline{AR}$ or K. Where circuit message numbers are used and acknowledgement of receipt is given to more than one message, only the circuit message number of the last message correctly received shall follow the signal R.

4.2.2—*Corrections and Repetitions*

4.2.2.1 *Checking the word count.*

4.2.2.1.1 When the receiving operator does not agree with the word count indicated in the preamble, he shall indicate this by means of the abbreviation W, followed by the number of words or groups received and the signal $\overline{IMI}$.

Note.—The following example illustrates the application of this procedure: W5 $\overline{IMI}$

4.2.2.1.2 If the transmitting operator, after making a recount, observes that an error has been made, he shall transmit the abbreviation W, followed by the corrected word count and the abbreviation OK.

Note.—The following example illustrates the application of this procedure: W5 OK

4.2.2.1.3 If the transmitting operator confirms the original word count, he shall transmit the abbreviation CFM followed by the original word count.

Note.—The following example illustrates the application of this procedure: CFM 6

4.2.2.1.4 If agreement is not reached, the receiving operator shall transmit the signal QTB and shall then send the first-letter check. The transmitting operator shall note the check and thereafter take such corrective action as may be necessary.

Note.—The following example illustrates the application of this procedure: QTB T 2 M G K

4.2.2.2 *RQ and BQ messages.*—RQ and BQ messages shall be used only by stations maintaining direct communication with each other and shall not be relayed to other stations. RQ and BQ messages shall not be given message numbers but shall be retained and attached to the station copy of the message to which they refer. RQ and BQ messages shall be given immediate attention and handled in accordance with the priority of traffic to which they refer.

Note.—The following example illustrates the application of this procedure: RQ 25/12 WA CIVIL; BQ 25/12 WA CIVIL AVIATION

Note.—"25/12" means "circuit message number 25 on the 12th".

4.3—*Automatic Radio Telegraph Procedure*

4.3.1 When automatic radiotelegraph equipment is employed, the following procedures shall be followed with respect to equipment alignment, speed, corrections and repetitions, and breaking-in.

4.3.2—*Marking Transmission*

4.3.2.1 Marking transmissions shall be used for the purpose of keeping equipment properly tuned and the circuit ready for instant operation. These shall be made by transmitting the letter V nine times in three groups of three, followed by the call sign(s) of the transmitting station sent three times. Each complete marking group shall be separated by three spaces.

Note.—The following example illustrates the application of this procedure: VVV VVV VVV VVV DUM35 DUM35

4.3.2.2 When marking transmissions are being made on two or more frequencies simultaneously, using the same automatic keying-head, the call signs of the appropriate frequencies on which the transmission is being made shall be indicated.

Note.—The following example illustrates the application of this procedure: VVV VVV VVV DUM35/DUM36 DUM35/DUM36 DUM35/DUM36

4.3.2.3 Marking transmissions during idle periods shall be at the rate of twenty words per minute.

4.3.3—*Speed of Operation*

4.3.3.1 Before commencing traffic transmission, the operating speed should be agreed between the stations concerned.

4.3.3.2 The shift from marking transmission to traffic transmission shall be made by increasing the speed of marking to normal traffic speed for approximately five seconds. The marking tape shall then be lifted from the keying-head and dots transmitted for approximately five seconds before the traffic tape is started. This procedure shall be used to warn the receiving station and allow time for adjustment of the receiving equipment to normal traffic speed.

4.3.3.3 In agreeing upon the operating speed, the term "words per minute" (WPM) should be used to refer to the reading of the tachometer and the keying-head drive without regard to the composition of the transmitted material. The word PARIS perforated consecutively, with each word separated by one space, should be used in preparing tapes for the purpose of calibrating the tachometer. The term "groups per minute" (GPM) should be used to indicate the speed at which material composed entirely, or predominantly, of figures is transmitted. The speed of transmission in groups per minute should be determined by perforating the desired number of figure groups, each consisting of five figures, with one space separation between groups, and adjusting the keying-head drive to transmit the required number of groups through the keying-head in one minute.

4.3.4—*Correction of Errors in Transmission*

4.3.4.1 All transmissions on automatic circuits shall be made from perfectly perforated tape, or from tape in which all errors detected in perforation have been perfectly patched out.

4.3.4.1.1 Errors or imperfect transmissions detected during transmission shall, if practicable, be corrected by lifting the tape from the keying-head and transmitting the correction manually. The tape shall then be re-set, so that the incorrect portion is not retransmitted.

4.3.4.1.2 When manual correction is not practicable, the correction shall be sent at the end and as continuation of the transmission.

4.3.4.2 Manual corrections shall be made by transmitting the signal RPT, the last group correctly transmitted before the error, the correction, and three groups beyond the corrected portion. The tape shall then be reset three groups back from the last group transmitted by hand.

Note.—The following example illustrates the application of this procedure:

Mutilated or illegible groups: 12345 67/24
Transmission by hand: RPT 12345 67345 14567 98764 12547
Tape re-set: 14567 98764 12547 (etc.)

4.3.4.3 When corrections are made by patching, dots shall be transmitted while the tape is removed from the keying-head. When ready to resume transmission, the tape shall be re-set at least three groups back from the last group correctly transmitted.

4.3.4.4 *RQ and BQ messages.*—RQ and BQ messages shall be used in accordance with 4.2.3.2.

4.3.5—*Break-in Procedure*

The receiving station shall not break-in on the transmitting station except to advise that equipment is not functioning properly or that transmissions are so mutilated that transcription and fill-ins would not be justified.

4.4—*Teletypewriter Operating Procedure*

4.4.1—*General*

4.4.1.1 *Station identification.*—An identification shall be assigned to each teletypewriter station. When a radio teletypewriter station is part of an aeronautical telecommunication station which has an assigned radio call sign, that sign shall also identify the radio teletypewriter station.

4.4.1.2 *Attention signal.*—The following signal shall be used to precede transmission of distress, urgency or safety messages:

Attention signal (3 times)—pause—
attention signal (3 times)—pause—
attention signal (3 times)

Note.—On circuits where it is known that teletypewriter equipment is of a different type in that the attention signal is actuated by the figure shift of J at one end and by the figure shift of S as the other, the figure shift of JSJSJS should be sent. Where the equipment is of the same type at each end, three repetitions of the figure shift of J or S will be used as appropriate.

4.4.1.3 *Non-typing mechanical functions*

4.4.1.3.1 Carriage return and line feed impulses shall follow the transmission of not more than a total of 69 characters and/or spaces to the line.

4.4.1.3.2 Two carriage return and one line first impulses shall be transmitted preceding the first printed character of each message and following each printed line of the text of a message. Two carriage return and at least six line feed impulses shall be transmitted immediately following the last printed character of each message, including confirmation, corrections and receipt.

Note.—Two carriage return impulses are required to ensure proper return of the carriage.

4.4.1.4 *Transmission of messages in series*

4.4.1.4.1 When a station has several messages to transmit to one or more stations on the same circuit, the messages shall be transmitted in series.

4.4.1.4.2 When a series of messages is being transmitted, it shall be regarded as a single transmission, except that the same separation shall be given to each message as is given to the transmission of a single message. Action shall be taken to deliver or reply such message eorrectly received without waiting for the end of the series.

4.4.1.4.3 For simplex circuits, the transmission of a series shall not eontinue for longer than approximately five minutes.

4.4.1.4.4 When a message of a type defind in 4.1.4.9 is accepted and contains more than 70 words of text, the station accepting the message shall arrange for its transmission in sections or pages of approximately 50 words of text. With the exception of the first, all sections or pages shall commence with the preamble in accordance with 4.1.3.3 followed by the page number. With the exception of the last section or page, all others shall terminate with the words PAGE . . . TO FOLLOW.

When messages of this category are in the eourse of transmission, they shall be interrupted at the end of a section or page to permit the transmissior. of higher priority traffic.

Note.—The following example illustrates the foregoing procedure:

1st Page:

DUM 119 162230
(address, etc.)

PAGE 2 TO FOLLOW

2nd Page:

DUM 119 162230 PAGE 2
(text)

PAGE 3 TO FOLLOW

4.4.1.5 *Acknowledgement of receipt*

4.4.1.5.1 *SOS and SVH messages.*—Messages bearing the letters SOS or SVH in lieu of a priority prefix shall be individually acknowledge by the receiving station by transmitting the signal R followed by the eircuit message number, if used, and the identification of the receiving station.

Note.—The following example illustrates the application of this procedure:

R 6 DUM Receipt of circuit message number 6 is acknowledge by DUM

4.4.1.5.2 *Acknowledgement of receeipt when message circuit numbers are used.*—Messages other than those in 4.4.1.5.1 shall not be individually aeknowledged on eircuits where circuit message numbers are used, but periodic number comparisons shall be made to ensure that all traffic transmitted has been received and that eircuit continuity is maintained.

Note.—The following example illustrates the application of this procedure:

Number comparison example:

DUM 22
PAL DE DUM
NR THIS MSG LS
Meaning: Number of this message is the last sent.

4.4.1.5.2.1 When the receiving operator observes that a circuit message number is missing, the sending station shall be informed by transmitting MIS . . . . . (circuit message number) at the earliest opportunity.

4.4.1.5.2.2 When a circuit becomes interrupted and alternative facilities exist, the last circuit message numbers received shall be exchanged between the stations concerned.

4.4.1.5.2.3 Whenever a circuit is unoccupied, stations should exchange last eircuit message numbers every fifteen minutes, or any other agreed transmissions.

4.4.2 *Establishment of Teletypewriter Communications*

4.4.2.1 *Remote teletypewriter equipment selection.*—When remote selection of teletypewriter equipment on a common circuit is to be made, the procedure for accomplishing such selection shall be agreed by the teleeommunication agencies eoncerned.

4.4.2.2 *Stations permanently connected to the same circuit.*—Stations permanently connected to the same eircuit shall have their teletypewriter equipment operative during the specified hours for working.

Note.—For such eircuits it is not nccessary for the stations concerned to use a preliminary call before actual message transmission.

4.4.2.3 *Stations not permanently connected.*—For stations not permanently eonnected, provision shall be made by the stations eoncerned either to establish eonnection or to arrange for a relay. When a connection has been establishd, the procedure shall be the same as for stations permanently eonnected.

4.4.2.4 *Automatie switching.*—The procedure for activating or deactivating automatic switching equipment shall be agreed between the telecommunication agencies concerned.

4.4.2.5 *Manual switching.*—The following proeedures shall be employed for manual switching.

4.4.2.5.1 *Obtaining conneetion through switchboard*:

(*a*) To obtain eonnection through a single switchboard or a series of switchboards, the transmitting operator shall eall the switchboard and request connection by transmitting the identification of the stations to be eonnected.

(*b*) If DF is received in reply, the operator shall proceed with the transmission of the message.

(*c*) If NEH is received, the operator shall transmit the message to the switchboard for onward transmission.

(*d*) If THRU is received, the operator shall repeat the request to the next switchboard.

4.4.2.5.2 *Switchboard connecting procedure:*

(*a*) The switchboard operator shall answer calls by transmitting the identification of the switchboard.

(*b*) If connection is requested to a station directly connected to the switchboard, DF shall be transmitted to the calling station when connection is made.

(*c*) If all lines to the required station or switchboard are engaged, and the calling station is not a switchboard station, the connection shall be made to the switchboard serving the calling station, and NEH shall be transmitted to the calling station.

(*d*) If connection is requested to a station connected to another switchboard, THRU shall be transmitted to the calling station when connection is made to the other switchboard.

(*e*) If all lines to the required station or subsequent switchboards are engaged, OCC shall be transmitted to the calling station by the switchboard which is unable to establish the connection.

(*f*) Multiple (simultaneous) transmissions shall be made only to stations directly connected to the switchboard setting up the multiple transmission.

(*g*) The transmitting operator requesting connection to a number of stations for a multiple transmission shall transmit the letter M four times in series, followed by the identification of the stations required.

(*h*) The switchboard operator shall then connect the calling teletypewriter to as many of the required stations as are then disengaged and shall transmit the identification of those stations, followed by "DF": e.g., PALX PAAX NWAY.

(*i*) If any of the required stations are engaged, the switchboard operator shall transmit the identifications of those stations followed by "NEH" or "OCC" as appropriate.

Note.—The following example illustrates the application of this procedure:

PALX PAAX NEH NWAX OCC

(*j*) Each station shall acknowledge receipt in the order of its sequence in the call, and each circuit shall be disconnected after acknowledgment of receipt has been given.

4.4.3 *Normal Operation*

4.4.3.1 When equipment for automatic transmission is installed, manual transmission shall not be used except when transmitting acknowledgments, correcting errors or when making other short transmissions of a similar character.

4.4.3.2 *Confirmation.*—If the transmitting station wishes to confirm a portion of a message, it shall indicate such confirmation by the abbreviation CFM followed by the portion being confirmed.

4.4.3.3 *Corrections and repetitions*

4.4.3.3.1 *During transmission.*—Errors noticed during transmission shall be corrected immediately by making the error sign (letter "E" four times with a space between each letter), transmitting the correct version of the word or group concerned, and then continuing with the transmission.

4.4.3.3.2 *After transmission and before acknowledgment of receipt.*—If the receiving operator is not satisfied with the accuracy of the message received, a repetition of a word or number of words should be requested using the appropriate ICAO abbreviations.

Note.—The following example illustrates the application of this procedure:

Examples:

	Messages	Meaning
Request	IMI DUMA	Repeat word after DUMA
Answer	WA VHSK	Word after DUMA is VSHK
Question	W4 IMI	Should not the number of words or groups be 4.
Answer	W4 OK	That is correct. The number of words or groups is 4.
or Answer	W5/T 2 MGK	The number of words or groups is 5. The first characters of each word or group are T, 2, M, G, K.

4.4.3.4 *Acknowledgment of receipt where circuit message numbers are not used.*—On the circuit where circuit message numbers are not used acknowledgment by the receiving station shall be carried out as follows:

(i) *Individual completely received messages.*—By transmitting the signal R followed by the identification of the receiving station;

(ii) *A series of messages.*—By transmitting the signal R followed by the place of origin and filing number of each message in the series and the identification of the receiving station.

4.4.4.1 *Tape relay routing*

4.4.4.1.1 Message tapes shall be routed by means of agreed routing indicators where such exist (see 4.4.4.16) and transmitted over the tape relay network without alteration and in accordance with predetermined routing and relay responsibility.

4.4.4.1.2 Where predetermined routing exists a routing guide shall be employed. All stations concerned shall adhere to the agreed routing guide which shall contain the predetermined routing and relay responsibility, both normal and alternative.

4.4.4.2 *On-net to off-net transfer*

4.4.4.2.1 *On-net to off-net.*—When it is necessary to forward messages received over the tape relay network to addressee(s) reached by telecommunication means other than tape relay, the processing of messages into the appropriate procedure for transfer to stations outside the tape relay network shall be acomplished by:

(*a*) deleting the tape relay heading;
(*b*) deleting the tape relay ending;
(*c*) inserting the appropriate message heading for transmission outside the tape relay network.

4.4.4.3 *Off-net to on-net transfer*

4.4.4.3.1 When messages are received from off-net stations by a tape relay station, for transfer into the tape relay network, the message form shall be altered prior to transmission by:

(*a*) deleting the message hearing;
(*b*) Substituting the tape relay heading for the message heading (the transmission instructions in the message heading and/or the address shall be used as a basis in the preparation of the tape relay heading);
(*c*) Adding the tape relay ending after making any correction to the text required by the instructions (COR) appearing in the message ending.

4.4.4.4 *Relaying stations.*—All messages shall be tape relayed in accordance with the routing indicator(s) appearing in the routing line and in accordance with the predetermined relay responsibility. The routing indicator(s) shall *not* be changed by intermediate tape relay stations.

4.4.4.5 *Cancelling messages.*—A message shall be cancelled only by the originator.

4.4.4.5.1 *Incomplete transmission.*—If a message has not been completely transmitted, the transmitting station shall instruct the receiving station to disregard the incomplete transmission by sending.

(*a*) 2 carriage returns
(*b*) 3 line feeds
(*c*) Q T A Q T A
(*d*) 2 carriage returns
(*e*) 6 line feeds
(*f*) 16 LTRS.

4.4.4.5.2 *Completed transmissions.*—When a completed message transmission is being held pending correction and the receiving station is to be informed to take no forwarding action, or when delivery or onward relay cannot be accomplished, transmission should be cancelled by sending QTA followed by the circuit message number to be cancelled.

Note.—The following example illustrates the application of this procedure:

[Station DUM wishes to inform station KCD to cancel a message identified as circuit message number 6 (of the 12th day of current month)]

KCD DE DUM
QTA DUM 6/12.

4.4.4.5.3 The station cancelling a transmission shall be responsible for any further action required.

4.4.4.6 *Relay of illegible messages.*—When possible, a correct tape copy shall be obtained prior to relay; when it is illegible or mutilated, the relay station shall not relay the message unless good judgment indicates that this is desirable.

4.4.4.7 *Missent or misrouted messages*

4.4.4.7.1 *Tributary stations.*—When a tributary station receives a missent or misrouted message from a relay station, the tributary station shall request the relay station to cancel the transmission, stating the reason for the request.

4.4.4.7.2 *Relay station*

4.4.4.7.2.1 When a tributary station reports a missent or misrouted message, the relay station shall retrieve the transmitted tape of the message referred to and cancel the transmission to the tributary station.

4.4.4.7.2.2 If it is a missent message, the relay station shall retransmit the tape over the proper circuit.

4.4.4.7.2.3 If it is a misrouted message, the relay station shall prepare a pilot tape consisting of the routing indicator of the station responsible for delivery or transfer to another circuit, the signal MSR, and the routing indicator of the station preparing the pilot tape.

4.4.4.7.2.4 Where the transmitted tape is not available at the relay station, the tributary station shall be requested to transmit the misrouted or missent message to the appropriate station.

Note.—The following examples illustrate the application of above procedures concerning misrouted messages:

As received by HSBK (Bangkok)

KCD 15
DUM 101
DVM A157
GG HSBK DE DUMA 62
DUMA 24 8 312230
GG ATC VSHK
FLIGHT 18 CANCELLED
PAL 312227
CFM 18
AR

As rerouted by DUMA (Manila)

KCD 20
VSHK MSR HSBK

GG HSBK DE DUMA 62
DUMA 24 8 312230
GG ATC VSHK
FLIGHT 18 CANCELLED
PAL 312227
PAL 312227
CFM 18

Note.—This indicates a misrouted message originated at Honolulu and relayed thru Guam and Manila to Bangkok. Bangkok upon receipt discovered that the message was misrouted in that it was relayed to Bangkok in error. Bangkok notifies Manila that KCD 15 is a misrouted message. Manila retrieves the transmitted tape and cancels the transmission KCD 15 to Bangkok. Manila then prepares a misroute pilot tape to Hongkong. Transmission identifications appearing on the original tape are deleted and the misrouted message is transmitted to Hongkong.

4.4.4.8 *Errors in transmission identification and perforation numbers.*

4.4.4.8.1 *Two tapes with the same transmission identification.*—When two different tape transmissions are received under the same perforation number or transmission identification, one of the transmissions shall be corrected prior to relay.

4.4.4.8.2 *Tapes with two transmission identifications.*—When a tape relay station is informed that it has transmitted a tape with two transmission identifications and the numbers appear at the beginning of the tape, the informing station shall be advised by the tape relay station to delete the lower number on the number sheet. The tape shall be forwarded using only the higher number for transmission identification, particular eare being taken to ensure that the lower number is not used. A transmission shall not be cancelled by deleting a number.

4.4.4.8.3 When a tape relay station is informed that it has transmitted a tape with two transmission identifications and the numbers are separated by portions of the message, the informing station shall be advised by the tape relay station to eancel the transmission and delete the numbers. The message shall then be transmitted under a new number.

4.4.4.8.4 *Tape without a perforation number.*—When a tributary station is advised by the relay station that it has transmitted a message without a perforation number, the tributary station shall advise the relay station to cancel the transmission and shall retransmit the message under the appropriate number.

4.4.4.8.5 *Missing numbers.*—The transmitting station shall furnish missing circuit message numbers or perforation numbers when so requested by the receiving station or, alternatively, shall direct the receiving station to leave the number blank.

4.4.4.9 *Service message.*—Services messages shall be prefixed by a tape relay routing line and handled as prescribed for other messages transmitted by tape relay (see 4.1.4.10).

4.4.4.10 *Correction of errors during tape preparation.*

4.4.4.10.1 Except in the routing line, errors made in preparing Chad tapes shall be corrected by back spacing the tape and eliminating the error by means of operating the LTRS key over the undesired portion.

4.4.4.10.1.1 Where the equipment is incapable of back spacing, corrections should be made in accordance with 4.4.4.11.1.

4.4.4.10.2 Except in the routing line, errors made in preparing Chadless tapes shall be corrected in accordance with 4.4.4.11.1.

4.4.4.10.3 Errors made in the routing line shall be corrected by discarding the incorrect tape and preparing a new tape.

4.4.4.11 *Correction of errors during keyboard transmission by tributary stations when perforating tape at reeeiving station.*

4.4.4.11.1 Errors notieed during transmission shall be corrected immediately by making the error sign (the letter E four times with a space between eaeh letter), transmitting the correct version of the word or group eoncerned, and then continuing with the transmission.

4.4.4.11.2 Errors made in the message routing line shall be corrected by sending Q T A Q T A and the transmission of a new routing line.

4.4.4.12 *Correction of errors at the end of message*

4.4.4.12.1 When the transmitting operator diseovers an error has been made in the text, the error shall be correeted at the end of the message. Such correetions shall be separated from the last text group, or confirmation, if any, by:

(*a*) 2 earriage returns;
(*b*) 1 line feed.

This shall be followed by the abbreviation COR and the correction.

4.4.4.12.2 Stations shall make all indicated corrections on the page copy prior to local delivery or a transfer to manually operated circuits.

4.4.4.13 *Preparation of tape.*—All tape shall be free from known uncorrected errors.

4.4.4.14 *Message alignment functions.*—The following machine functions shall be used to expedite the handling of messages through tape relay stations and for proper alignment of receiving page teletypewriters:

(*a*) Messages shall be preceded by:
(i) at least 5 spaces;
(ii) 2 earriage returns;
(iii) 1 line feed.

(*b*) Messages shall be terminated by:
(i) 2 carriage returns:
(ii) 6 line feeds;
(iii) 16 LTRS.

(*c*) A pilot tape, when used, shall be separated from the message by:
(i) 2 carriage returns:
(ii) 3 line feeds.

4.4.4.15 Tape relay heading.

4.4.4.15.1 *Transmission identification*

4.4.4.15.2 Transmission identification shall be employed by tape relay stations to ensure a continuity whereby a circuit message number system is maintained between tape relay stations. This transmission identification shall precede the routing line.

4.4.4.15.3 Transmission identification tapes shall not be employed by tributary stations.

4.4.4.15.4 Where transmission identification tapes are employed, each transmission shall be prepared in accordance with the following example:

DUMA A114

4.4.4.15.5 Each transmission identification shall be preceded by:

(*a*) at least 5 spaces;
(*b*) 2 carriage returns;
(*c*) 1 line feed;

and followed by:

(*d*) at least 1 LTRS.

4.4.4.15.6 Transmission identification shall appear on the message tape only after relay.

4.4.4.16 *Routing line*

4.4.4.16.1 Priority prefix(es) shall be separated from the first routing indicator in the routing line by two spaces.

4.4.4.16.2 When multiple priority is used, the routing indicator accorded the higher priority prefix shall appear first in the routing line.

Note.—The following example illustrates the application of this procedure:

KGVM HSBK VSHK DUMA

4.4.4.16.3 Routing indicators shall be selected from the prescribed list (see 4.4.4.1.2).

4.4.4.17 *Perforation numbers*

4.4.4.17.1 Messages shall be numbered in consecutive order for each perforating position, regardless of destination, starting with number 1 at 0000 hours daily. Perforation numbers shall be inserted in the tape by the perforating operator immediately following the calling station identification, and shall be recorded on the original message copy.

4.4.4.17.2 Perforation numbers shall also be used to ensure the continuity of service between tributary station and the first tape relay station.

4.4.4.17.3 When there is more than one perforating position, a channel identification letter shall be suffixed to indicate the position used.

Note.—The following examples illustrate the application of this procedure:

9A would mean the 9th message cut on position A.

35B would mean the 35th message cut on position B.

4.4.4.18 *Transmission and delivery instructions.*—Where predetermined routing cannot be employed, transmitting instructions shall be included to indicate responsibility for further relay or delivery of multiple address messages.

4.4.4.19 *Preamble, address, text and signature group.*—The preamble, address, text and signature group shall contain the message format as prescribed in 4.1.3.

4.4.4.20 *Message ending*

4.4.4.20.1 If the perforating station wishes to confirm a portion of a message, it shall indicate such confirmation by the abbreviation CFM followed by the portion being confirmed. This confirmation, when used, shall be preceded by:

(*a*) 2 carriage returns:
(*b*) 1 line feed.

4.4.4.20.2 When the perforating station wishes to correct any portion of the message, with the exception of the tape relay routing, it shall indicate such correction by the abbreviation COR followed by the correction. This correction shall be in accordance with 4.4.4.12.

4.4.4.20.3 The ending sign AR shall be followed by:

(*a*) 2 carriage returns;
(*b*) 6 line feeds;
(*c*) 16 LTRS.

A tributary station shall transmit following the above non-typing functions sufficient additional non-typing mechanical functions to ensure that the tape is adequately advanced from the machine at the relay station to avoid any mutilation of the transmission proper when the tape is torn off.

4.4.4.21 *Message layout.*—The message layout for tape relay operation shall comprise the following:

Component Parts	Procedure lines	Elements and line facing (as they may appear for civil component)
(A) HEADING		
(i) Transmission identification	1	Sequential transmission identification
(ii) Routing line	2	Priority prefix(es); routing indicator(s) of station(s) required to perform a delivery function, word DE; routing indicator of the station preparing the tape and perforation number.

(iii) Transmission and delivery instructions	3	Routing indicator(s) of station(s) responsible for delivery or transfer and the identification(s) of station(s) served
(B) PREAMBLE	4	
(C) ADDRESS	5	
(D) TEXT	6	
(E) SIGNATURE GROUP (if used)	7	
(F) ENDING		
(i) Confirmation (if required)	8	The abbreviation CFM followed by confirmatory material
(ii) Corrections (if required)	9	The abbreviation COR followed by the correction
(iii) Ending signal	10	AR

Note.—The following examples illustrate the application of this procedure:

Note.—Lines not required are left blank. Non-typing mechanical functions necessary at the end of each line are shown in parenthesis using the following abbreviations:

LTRS——LTRS Key
CR——Carriage Return Key
LF Line Feed Key
SPACE——————Space Bar

Preparation of a Single Address Message

Line 1:	(See explanation below) (5 spaces)	(2 CR)	(LF)
Line 2:	GG HSBK DE DUMA 91	(2 CR)	(2 LF)
Line 3:			
Line 4:	BTPE 63 8 302329	(2 CR)	(LF)
Line 5:	GG KLM HSBK	(2 CR)	(LF)
Line 6:	FLIGHT 7 BANCELLEX		
Line 7:	KLM 302327	(2 CR)	(LF)
Line 8:	DFM 7	(2 CR)	(LF)
Line 9:	COR CANCELLED		(LF)
Line 10:	AR.	(2 CR)	(6 LF)
		(plus non-typing mechanical functions as required)	

Note.—Line 1—A transmission identification appears on the message tape only after relay.

Preparation of Multiple Address Message

Line 1:	(See explanation below) (5 spaces)	(2 CR)	(LF)
Line 2:	GG HSBK VSHK DE DUMA 63	(2 CR)	(2 LF)
Line 3:			
Line 4:	LRRB 66 10 312331	(2 CR)	(LF)
Line 5:	GG KLM HSBK	(2 CR)	(LF)
	GG KLM VHSK	(2 CR)	(LF)
Line 6:	FLIGHT 18 CANCELLED		
Line 7:	312227	(2 CR)	(LF)
Line 8:	CFM 18		(LF)
Line 9:			
Line 10:	AR	(2 CR)	(6 LF)
		(16 LTRS)	
		(plus non-typing mechanical functions as required)	

Note.—Line 1—A transmission identification appears on the message tape only after relay.

4.4.5. *Automatic Operation*

4.4.5.1 The sequence of characters required to activate or de-activate equipment employed in automatic switching and automatic relay shall be decided by agreement between the agencies concerned:

CHAPTER 5.—AERONAUTICAL MOBILE SERVICE

5.1—*General*

5.1.1 *Hours of service.*—During flight, aircraft stations shall maintain watch and shall operate on the appropriate radio frequency. Aircraft stations shall not cease watch, except for reasons of safety, without informing the air-ground control station.

5.1.2 *Frequencies to be used.*—

5.1.2.1 The air-ground control radio station shall designate appropriate primary, secondary and alternate frequencies and reporting schedules to the aircraft station, and shall normally control frequency changes en route during the tenure of guard by that station.

5.1.2.2 The assignment of frequencies to be used by aircraft shall be based upon a logical "frequency utilization plan" in order to avoid overloading any one frequency. Each OFACS shall devise such a plan for each route or area served and shall adhere thereto as closely as is practicable. In general, each aircraft shall be assigned a frequency prior to, or immediately after departure, to be used on the first portion of its flight. This should normally be the lowest available frequency. At the appropriate time, in accordance with the predetermined plan, the aircraft shall be requested to shift to the next higher frequency. This procedure is repeated until communications control of the aircraft is transferred to the next station or relinquished. The reverse of this procedure will apply with respect to aircraft approaching the station.

5.1.2.3 When the aircraft reaches the agreed position for transfer of communications control, the air-ground control radio station of departure shall ascertain that the aircraft is in reliable communication with the next air-ground control radio station before relinquishing control.

5.1.2.4 The transmission of message on aeronautical mobile frequencies should be avoided when the aeronautical fixed services are able to serve the intended purpose.

5.1.3 Tests

5.1.3.1 Where it is necessary for an aircraft station to send signals for testing or adjustment which are liable to interfere with the working of a neighboring aeronautical station, the consent of the station shall be obtained before such signals are sent.

5.1.3.2 When it is necessary for a station in the aeronautical mobile service to make test signals, either for the adjustment of a transmitter before making a call or for the adjustment of a receiver, such signals shall not continue for more than 10 seconds and shall be composed of a series of VVV in radiotelegraphy or of spoken numerals (one, two, three, etc.) in radiotelephony, followed by the radio call sign of the station transmitting the test signals.

5.1.4 *Establishment of communication*

5.1.4.1 Except as otherwise provided, the responsibility of establishing communication shall rest with the radio station having traffic to transmit.

5.1.4.2 In communications between air-ground radio stations and aircraft the duration of continuous work is controlled by the former and should not normally exceed 5 minutes.

5.1.4.3 When communication schedules are maintained, the air-ground control radio station shall, however, endeavor to establish communications with an aircraft under his guard, whether or not traffic is on hand, when a period of 5 minutes has elapsed subsequent to a communication schedule which was not observed.

5.1.4.4 Aircraft stations shall communicate with the air-ground control radio station appropriate to the area in which the aircraft are flying, except under the provisions of the following subparagraphs:

5.1.4.4.1 Aircraft stations may communicate with other aeronautical stations when traffic can be handled more effectively than through the air-ground control radio station.

5.1.4.4.2 Under abnormal circumstances, aircraft stations may use any relay means available to transmit messages to an air-ground control radio station. An air-ground control radio station may also use any relay means available to transmit messages to aircraft stations.

5.1.4.5 When an aeronautical station is called simultaneously by several aircraft stations, the aeronautical station shall decide the order in which aircraft shall communicate. After determining which aircraft shall first transmit, the other aircraft shall be requested to wait.

5.1.4.6 In communications between aircraft stations, the duration of communication shall be controlled by the aircraft station which is receiving, subject to the intervention of an aeronautical station.

5.1.4.7 When it is necessary to suspend work, for example, because of a thunderstorm or of repairs to apparatus, an aircraft shall, if possible, inform the air-ground control radio station beforehand by sending the appropriate phrase or Q signal, followed by the time at which it is expected that communication will be resumed.

5.1.4.7.1 When transmission is again possible, the aircraft shall so inform the air-ground control radio station by sending the appropriate phrase or Q signal.

5.1.4.8 When it is necessary to suspend work beyond the time specified in the original notice, an appropriate phrase or Q signal with a revised time of resumption of communication shall, if

possible, be transmitted by the aircraft station, at or near the time first specified.

5.1.5 *Failure of communications*

5.1.5.1 When contact with the aeronautical station fails on the selected frequency, the aircraft shall attempt to establish contact on another frequency appropriate to the route.

5.1.5.2 When normal communication from an aeronautical station to an aircraft cannot be established, efforts shall be made to relay traffic via any other aeronautical station or aircraft station with which communication is possible. If those efforts fail the originator shall be advised.

5.1.5.2.1 When a message containing information other than clearances or instructions issued by air traffic control units is not delivered to the aircraft addressed after applying the procedure in 5.1.5.2, the message should be transmitted by blind transmission on the frequency(ies) on which the aircraft is believed to be listening.

5.1.5.3 When an aircraft station is unable to establish communication due to receiver failure, it shall transmit periodical reports at scheduled times, or positions, on the frequency in use.

5.1.5.4 The air-ground control radio station shall notify the appropriate air traffic control office and the aircraft operating agency, as soon as possible, of any failure in air-ground communication.

5.1.6 *Categories of messages.*—The following categories of messages shall be handled by the aeronautical mobile service:

(*a*) distress messages and distress traffic;
(*b*) urgency messages;
(*c*) safety messages;
(*d*) communications relating to direction finding;
(*e*) flight safety messages;
(*f*) meteorological messages;
(*g*) flight regularity messages.

Note.—A NOTAM may qualify for any of the categories (*e*) to (*g*) inclusive. The decision as to which category will depend on the contents of the NOTAM and its importance to the aircraft concerned.

5.1.6.1 Distress messages and distress traffic shall be handled in accordance with the provisions of 5.4.

5.1.6.2 Urgency messages and urgency traffic shall be handled in accordance with the provisions of 5.5.

5.1.6.3 Safety messages shall be handled in accordance with the provisions of 5.6.

5.1.6.4 Communications relating to direction finding shall be handled in accordance with Chapter 6.

5.1.6.5 Flight safety messages.—Flight safety messages shall comprise the following:

(1) air traffic control messages;
(2) position reports from aircraft;
(3) messages originated by an aircraft operating agency or by an aircraft, of immediate concern to an aircraft in flight.

5.1.6.6 *Meteorological messages.*—Meteorological messages shall comprise:

—meteorological information to or from aircraft.

5.1.6.7 Flight regularity messages.—Flight regularity messages shall comprise the following:

(1) messages concerning changes in aircraft operating schedules;
(2) messages concerning the servicing of aircraft;
(3) instructions to aircraft operating agency representatives concerning changes in requirements for passengers and crew caused by unavoidable deviations from normal operating schedules. Individual requirements of passengers or crew shall not be admissible in this type of message;
(4) messages concerning non-routine landings to be made by the aircraft;
(5) messages concerning aircraft parts and materials urgently required;
(6) messages regarding the operation or maintenance of facilities essential for the safety or regularity of aircraft operation.

5.1.7 *Order of Priority*

5.1.7.1 The order of priority in the establishment of communications and the transmissions of messages in the aeronautical mobile service shall be as follows:

Type of Message	Radiotelegraph signal	Radiotelegraph signal
(1) Distress calls, distress messages and distress traffic	$\overline{\text{SOS}}$	MAYDAY
(2) Urgency messages	XXX	PAN
(3) Safety messages	TTT	SECURITE
(4) Communications relating to direction finding	—	—
(5) Flight safety messages	—	—
(6) Meteorological messages	—	—
(7) Flight regularity messages	—	—

Note.—A NOTAM may qualify for any of the priorities 3 to 7 inclusive. The decision as to which priority will depend on the contents of the NOTAM and its importance to the aircraft concerned.

5.1.7.2 Messages having the same priority should, in general, be transmitted in the order in which they are received for transmission.

5.2—*Radiotelegraph Procedures*

5.2.1 *Composition of messages requiring a specific address*

5.2.1.1 *Messages handled entirely by the aeronautical mobile services.*—Where circumstances require a specific address to ensure delivery, messages

shall comprise the following parts in the order stated:

(*a*) preamble;
(*b*) address;
(*c*) text;
(*d*) signature group (if used).

5.2.1.2 *Preamble.*—The preamble shall consist of the station of origin, indicated by the ICAO Plan Name Abbreviation, or by the identification of the aircraft, as the case may be.

5.2.1.3 *Address.*—The address shall contain the following items in the order shown:

(*a*) name of the organization addressed (abbreviated);
(*b*) station of destination (place name abbreviation).

5.2.1.3.1 When messages are addressed to an aircraft, the registration mark assigned to the aircraft, or the radio call sign, should be used as the address.

5.2.1.3.2 Acceptance as a single message of a message intended for two or more addresses, whether at the same station or at different stations, shall be permitted.

5.2.1.4 *Text.*—The text of messages shall be drafted in accordance with 3.8.

5.2.1.5 *Signature.*—When used, the signature shall be the abbreviated name of the organization which originated the message, or an abbreviation representing a department or division of the organization, or the last name of an individual.

5.2.2. *Messages requiring retransmission on the aeronautical fixed service*

5.2.2.1 *Messages originated in an aircraft*

5.2.2.1.1 When an aircraft is the place of origin of a message that requires a specific address and retransmission over the aeronautical fixed service, the message shall be prepared in accordance with 4.1.3.3 to 4.1.3.7 inclusive in order that it may be retransmitted with a minimum of reprocessing by the aeronautical telecommunication station concerned.

5.2.3 *Composition of messages which do not require a specific address.*—Where messages do not require a specific address, the call shall serve to indicate the station of origin.

Note.—The following example illustrates the application of this procedure:

(call) DUM DE DZPEC
(text) QCE IMI or
(call) DZPEC DE DUM
(text) CLR TO MAKE PRACTICE GCA LANDING

5.2.4 *Calling*

5.2.4.1 In establishing communication by means of radio telegraphy the complete five-letter call sign of the aircraft station should be used. After communication has been established, an abridged call consisting of the first letter and the last two letters of the call sign may be used, provided that no confusion will result.

5.2.4.2 Stations having a requirement to transmit information to all stations likely to intercept, shall preface such transmission by the general call ALL STATIONS followed by the words THIS IS and the identification of the calling station.

5.2.5 *Acknowledgment of Receipt.*—A receiving operator shall not transmit an acknowledgment of receipt until he is satisfied that the received message is complete. Receipt of a message shall be acknowledged by transmitting the radio call sign of the station acknowledging receipt followed by the signal R, and the signal AR or K.

5.3—*Radiotelephone Procedures*

5.3.1 *Language used.*—Airground radiotelephony communications shall be conducted in the English language.

5.3.1.1 When the aircraft station cannot use the English language, the aircraft operating agency concerned may make arrangement with the Administrator for the provision of an interpreter by the former.

5.3.1.2 When provided, such interpreter shall have access to and use of radiotelephone channels under the supervision of the communicator or controller on duty.

5.3.2 *Test Procedures*

5.3.2.1 The form of test transmissions shall be as follows:

(*a*) the identification of the station being called;
(*b*) the words THIS IS;
(*c*) the aircraft identification;
(*d*) the words SIGNAL CHECK (if the test is made while the aircraft is airborne) or
(*d*) the words MAINTENANCE CHECK (If the test is a routine ground test) or
(*d*) the words PREFLIGHT CHECK (if the test is made when the aircraft is about to depart);
(*e*) the frequency being used;
(*f*) the word OVER.

5.3.2.2 The reply to a test transmission shall be as follows:

(*a*) the identification of the aircraft;
(*b*) the words THIS IS;
(*c*) the identification of the ground station replying;
(*d*) information regarding the readability of the aircraft transmission (together with any last minute information relative to en route communications, if any, in response to a PREFLIGHT CHECK);
(*e*) the word OUT.

5.3.2.3 The ground test transmission and reply thereto shall be entered in the communication log of the aeronautical station.

5.3.2.4 When tests are made the following readability scale shall be used:

Readability Scale:

1 Unreadable
2 Readable now and then
3 Readable but with difficulty
4 Readable
5 Perfectly readable

Example:

(CALL) SIGNAL (or MAINTENANCE or PREFLIGHT) CHECK READING YOU TREE. OUT (or OVER)

5.3.3 *Word Spelling in Radiotelephony*

When proper names, service abbreviations and words of which the spelling is doubtful are spelled out in radiotelephony, the following alphabet shall be used:

A—Alfa	J—Juliett	S—Sierra
B—Bravo	K—Kilo	T—Tango
C—Coca	L—Lima	U—Union
D—Delta	M—Metro	V—Victor
E—Echo	N—Nectar	W—Whiskey
F—Foxtrot	O—Oscar	X—Extra
G—Golf	P—Papa	Y—Yankee
H—Hotel	Q—Quebec	Z—Sulu
I—India	R—Romeo	

5.3.3.1 *Transmission of Numbers*

5.3.3.1.1 All numbers except whole thousands shall be transmitted by pronouncing each digit separately. Whole thousands shall be transmitted by pronouncing each digit in the number of thousands by the word "thousand".

Note.—The following examples illustrates the application of this procedure:

10	One zero
75	Seven five
100	One zero zero
583	Five eight three
5000	Five thousand
11000	One one thousand
25000	Two five thousand
38143	Three eight one four three

5.3.3.1.2 Numbers containing a decimal point shall be transmitted as prescribed in 5.3.3.1 with the decimal point in appropriate sequency being indicated by the word "Decimal".

Note.—The following example illustrates the application of this procedure:

Number	Transmit as
118.1	One one eight decimal one

5.3.3.2 *Verification of numbers*

5.3.3.2.1 When it is desired to verify the accurate reception of numbers the person transmitting the message shall either:

(*a*) repeat whole numbers in accordance with 5.3.3.1 to 5.3.3.1.1; or

(*b*) request the receiving operator to repeat whole numbers.

Example:

The station on the ground wishes to pass the following message:

"Climb to 1100 meters and contact approach control on 119.1 Mc/s."

Station on the ground—Method a): "Climb to one one zero zero I say again one one zero zero meters and contact approach control on one one nine decimal one I say again one one nine decimal one megacycles."

Station on the ground—Method b): "Climb to one one zero zero meters and contact approach control on one one nine decimal one say again altitude and frequency over."

Aircraft: "Wilco one one zero zero meters one one nine decimal one megacycles."

Station on the ground: "That is correct out."

5.3.3.3 *Pronounciation of numbers*

5.3.3.3.1 When the provisions of 5.3.1.2 are applied numbers shall be transmitted using the following pronounciation:

Numeral or Numeral Element	Pronounciation
0	ZE-RO
1	WUN
2	TOO
3	TREE
4	FOW-er
5	FIFE
6	SIX
7	SEV-en
8	AIT
9	NIN-er
Decimal	DAY-SEE-MAL
Thousand	TOU-SAND

Note.—The syllables printed in capital letters in the above list are to be stressed; for example, the two syllables in ZE-RO, are given equal emphasis, whereas the first syllable of FOW-er is given primary emphasis.

5.3.4 *Transmitting Technique*

5.3.4.1 Transmissions shall be conducted concisely in a normal conversational tone; full use shall be made of standard phraseologies wherever these are prescribed in relevant documents or procedures.

5.3.4.2 To prevent unnecessary transmission on the aeronautical fixed telecommunication network of messages received from aircraft aeronautical stations to which such messages are addressed or

routed should, if practicable, intercept the messages and acknowledge the receipt of them to the aeronautical station in communication with the aircraft. Such acknowledgment of receipt should be made within one minute after completion of the transmission and should consist of the identification of the station acknowledging receipt followed by the identification of the aircraft, whose message is intercepted.

5.3.4.3 The acronautical station in communication with the aircraft should not request such acknowledgment of receipt but should forward the message on the fixed telecommunication network, if no such acknowledgment of receipt is received within one minute.

5.3.4.4 Each written message shall be read prior to commencement of transmission in order to eliminate unnecessary delays in communications.

5.3.4.5 Transmissions should be conducted at a rate of speech which will permit the receiving operator to copy the transmission verbatim. Stations on the ground should be conscious of the limited speed at which aircrews are able to transcribe the information received.

5.3.5 *Composition of messages requiring a specific address*

5.3.5.1 Messages handled entirely by the aeronautical *mobile service*.—Where circumstances require a specific address to ensure delivery, messages shall comprise the following parts in the order stated:

(*a*) preamble;
(*b*) address;
(*c*) text;
(*d*) signature group (if used).

5.3.5.1.1 *Preamble*.—The preamble shall consist of the station of origin indicated by the name of the aeronautical station, or by the identification of the aircraft, as the case may be (see 5.3.6.2).

5.3.5.1.2 *Address*.—The address shall contain the following items in the order shown:

(*a*) name of the organization addressed;
(*b*) name of the station of destination.

5.3.5.1.3 When messages are addressed to an aircraft, only the aircraft identification shall be used as the address (see 5.3.6.2).

5.3.5.1.4 Acceptance as a single message of a message intended for two or more addressees, whether as the same station or at different stations is permitted.

5.3.5.1.5 *Text*.—The text of messages shall be as short as practicable to convey the necessary intelligence; full use shall be made of standard phraseologies wherever these are prescribed in the relevant documents or procedures.

5.3.5.1.6 *Signature*.—When used, the signature shall be the abbreviated name of the organization which originated the message, or an abbreviation representing a department or division of the organization, or the last name of an individual.

5.3.5.2 *Messages requiring retransmission on the aeronautical fixed service.*

5.3.5.2.1 *Messages originated in an aircraft*

5.3.5.2.1.1 When an aircraft is the place of origin of a message that requires a specific address and retransmission over the aeronautical fixed service, the message shall comprise the following elements in the order shown:

(*a*) the call;
(*b*) the address (preceded by the word "FOR");
(*c*) the text;
(*d*) the signature group (if used).

Examples:

(call) MANILA RADIO THIS IS FILAIRLINE BRAVO ECHO
(address) FOR FILAIRLINE MANILA
(text) NUMBER ONE ENGINE CHANCE REQUIRED ON ARRIVAL

5.3.5.2.1.2 Where it is possible to make prior arrangements for the predetermined distribution over the aeronautical fixed service of routine messages from aircraft, such distribution shall be made without the necessity of including a specific address.

5.3.5.3 *Messages which do not require a specific address*

5.3.5.3.1 When messages do not require a specific address, the call shall serve to indicate the station of origin and the station of destination.

Examples:

(call) MANILA RADIO THIS IS FILAIRLINE BRAVO ECHO
(text) MAY I CHANGE FROM THREE TO FIVE MEGACYCLES or

5.3.6—*Calling*

(call) FILAIRLINE BRAVO ECHO THIS IS MANILA RADIO
(text) CHANGE FROM THREE TO FIVE MEGACYCLES 5.3.6.—*Calling*

5.3.6.1 Where necessary for identification, the under-mentioned words shall be used following the name of the location to indicate the service required at the location concerned:

CONTROL	Area Control Center
RADIO	Aeronautical station
HOMER	Radio Direction Finding Station
APPROACH	Approach Control Office
TOWER	Aerodrome Control Tower

5.3.6.2 *Radiotelephone call signs for aircraft*

5.3.6.2.1 In radiotelephony, aircraft shall be identified by one of the following types of call sign:

(*a*) The five-letter call sign of the aircraft, or

(*b*) A combination of characters corresponding to the official registration mark of the aircraft, or

(*c*) The five-letter call sign of the aircraft preceded by the radiotelephone abbreviation of the airline, which shall then form the radiotelephone call sign, or

(*d*) The radiotelephone abbreviation of the airline followed by the flight identification number, which shall combine to form the radiotelephone call sign.

5.3.6.2.2 After communication has been established when using the call sign prescribed in 5.3.6.2.1 (*c*), an abridged call sign may be use consisting of the radiotelephone abbreviation of the airline and the last two characters of the call sign.

5.3.6.2.3 An aircraft shall not change the type of its radiotelephone call sign during flight.

5.3.6.3 *Radiotelephone calling procedure*

5.3.6.3.1 The calling procedure of an aircraft attempting to establish communication with an aeronautical station shall be as follows:

	Type (*a*)	Type (*b*)	Type (*c*)	Type (*d*)
Designation of the station called	Manila Radio	Manila Radio	Manila Radio	Manila Radio
The words "This is"	This is	This is	This is	This is
Designation of the station calling	DZPEC *	PIC293 *	FILAIRLINE DZPEC *	FILAIRLINE 15 *

5.3.7.3.2 The reply to the above calls shall be as follows:

	Type (*a*)	Type (*b*)	Type (*c*)	Type (*d*)
Designation of the station called	DZPEC *	PIC293	FILAIRLINE DZPEC *	FILAIRLINE 15 *
The words "This is"	This is	This is	This is	This is
Designation of the answering station	Manila Radio	Manila Radio	Manila Radio	Manila Radio
Invitation to proceed with transmission	OVER	OVER	OVER	OVER

Each letter in the call sign is to be spoken separately; when desired, the individual letters may be spelled out using the spelling system contained in 5.3.3. Numerals are to be spoken in accordance with 5.3.3.3.1.

Note.—When the procedure in 5.3.6.2.2 is applied, the aircraft identification in both the call and reply would be Filairline EC or when the spelling alphabet is used, Filairline Echo Coca (See 5.3.2.).

5.3.6.4 Communications shall commence with a call and a reply when it is desired to establish contact except that, when it is certain that the station called will receive the call, the calling station may transmit the message, without waiting for reply from the station called.

5.3.6.5 After contact has been established, continuous two-way communication shall be permitted without further identification or call (if no mistake in identity is likely to occur) until termination of the contact.

5.3.6.6 When ground stations are known to be guarding several frequencies, the call shall be followed by the indication of the frequency used.

Examples:

MANILA RADIO—FILAIRLINE ALFA ECHO ON ONE ONE (i.e., on 11 mc/s.)

5.3.7—*Exchange of Communication*

5.3.7.1 When no confusion is likely to arise, a shortened form of procedure shall be permitted. For example, STAND BY, OVER, ROGER, THIS IS and other similar phrases may be omitted at the discretion of the operators after initial contact has been established.

5.3.7.2 *Acknowledgement of receipt.*—An acknowledgement of receipt shall not be given until the receiving operator is certain that the transmitted information has been received correctly. A receiving station shall acknowledge receipt by transmitting its own identification followed by the word ROGER. For verification, the receiving operator may repeat back the message as an acknowledgement of receipt.

5.3.7.3 *End of conversation.*—A radiotelephone conversation shall be terminated by the receiving station using its own identification followed by OUT. This will indicate that no response is expected.

5.3.7.4 *Corrections and repetitions*

5.3.7.4.1 When an error has been made in transmission the word CORRECTION shall be spoken, the last correct group or phrase repeated, and then the correct version transmitted.

5.3.7.4.2 Items shall not be repeated, unless repetition is requested by the receiving station.

5.3.7.4.3 Repetitions should be requested if reception is doubtful.

5.3.7.4.4 If repetition of an entire message is required, the words SAY AGAIN shall be spoken. If repetition of a portion of a message is required, the operator shall state: "SAY AGAIN ALL BEFORE . . . (first word satisfactorily received)"; or "SAY AGAIN . . . (word before missing portion) TO . . . (word after missing portion"; or "SAY AGAIN ALL AFTER . . . (last word satisfactorily received)".

5.3.7.4.5 Specific items should be requested as appropriate, such as "SAY AGAIN ALTIMETER", "SAY AGAIN WIND".

5.3.8—*Network Operation*

5.3.8.1 Each aeronautical station shall listen to all communications on its network, and shall be responsible for rendering communications assistance to all other stations as required.

5.3.8.2 The air-ground control radio station shall notify changes in the assignment of primary, secondary and alternate frequencies to other stations of the network.

5.3.8.3 All aeronautical stations in a network shall intercept any messages from aircraft being transmitted to other stations of the network and acknowledge those which may be required at the location of the intercepting station.

5.3.8.4 The aeronautical stations of the network shall not use the radiotelephone channels for fixed service communications except for the exchange of essential information such as the relay of communications from an aircraft to another aeronautical station of the network, the transfer of control from one station to another or similar messages directly relating to the efficient conduct of communications within the network.

5.3.8.5 The basic section of the standard position report, air traffic control instructions and clearances and altimeter setting information shall be read back to ensure accuracy of reception, except that the air-ground control radio station may suspend this procedure when necessary in order to relieve congestion in communications traffic.

5.3.8.5.1 The station to which the information is read back shall acknowledge the correctness of the readback by transmitting its identification.

5.3.8.6 *Reporting Time Off Ground*

5.3.8.6.1 When necessary, aircraft shall call as soon as possible after departure, and report take-off time to the appropriate ground station of the network.

Note. 1.—The requirement for this procedure is a subject for regional determination.

Note 2.—The following example illustrates the application of this procedure:

(Aircraft station) MANILA — FILAIRLINE TOO NINER TOO—OFF MANILA TREE FIFE

(Aeronautical station): FILAIRLINE TOO NINER TOO—M A N I L A—OFF MANILA TREE FIFE

(Aircraft station): FILAIRLINE TOO NINER TOO (denoting accuracy of repeat back)

(Intercept station): H O N G K O N G—FILAIRLINE TOO NINER TOO

5.3.8.7 *Aircraft Stations Leaving Network*

5.3.8.7.1 If, after ceasing to be controlled by the en route network, an aircraft station does not intend to continue a listening watch on the network frequencies it shall transmit a change over report prior to leaving the network, consisting of a standard call followed by the words CHANGING TO TOWER or CHANGING TO APPROACH CONTROL, etc. as appropriate.

5.3.8.7.2 The aeronautical stations of the network shall continue to guard the aircraft until notification of arrival time is received or intercepted.

5.3.8.8 *Reporting Landing*

5.3.8.8.1 Where necessary, aircraft shall call, as soon as possible, after landing and report landing time to the appropriate ground station of the network.

Example:

(Aircraft station): FILAIRLINE TOO NINER TOO—LANDED MANILA TREE TOO.

5.3.8.8.2 Where the procedure in 5.3.9.8.1 is used, the ground station concerned shall acknowledge receipt of the landing report.

5.3.8.9 *Communication Difficulties*

5.3.8.9.1 Any aeronautical stations of the network hearing two unanswered calls to another station on its network shall assist by calling that station and relaying traffic as required.

5.3.8.10 *Loss of Communications—Ground-to-Air*

5.3.8.10.1 When no transmission has been received from an aircraft for a prescribed interval after the scheduled or expected reporting time, the following procedure shall immediately be appield.

(1) Primary station calls aircraft on the primary frequency, If call remains unanswered after 15 seconds, second call to be made.

(2) If second call remains unanswered after 15 seconds, two calls to be made 15 seconds apart on secondary frequency.

(3) 15 seconds after the above unanswered calls, any standby station intercepting these calls to make calls on primary and secondary frequencies as in 1) and 2) above.

(4) If steps 1), 2) and 3) are unsuccessful and the aircraft is not heard 5 minutes from the time after the action in 5.3.8.10.1 has been initiated, the primary station to advise details of the communication failure to the appropriate Air Traffic Service authorities and also to the aircraft operating agency if locally represented, unless arrangements exist whereby such information may be made available to it by other means.

(5) The primary station continues efforts to contact the aircraft by:

(*a*) Calling the aircraft of frequent intervals on all appropriate frequencies and co-ordinating with other stations of the network in further attempts to establish communication with the aircraft;

(*b*) Requesting other aircraft on the route to attempt establishment of communications with the unheard aircraft on HF frequencies and 121.5 mcs. or other appropriate WHF frequency;

(*c*) Contacting, on oceanic routes where ocean station vessels are located, the appropriate ocean station vessel, requesting the vessel to call and listen for the aircraft on the relevant frequencies.

5.3.8.11 *Loss of Communications—Air-to-Ground*

5.3.8.11.1 When the aircraft station calls the air-ground control radio station on the primary frequency and received no answer within 1 minute, it should call again. If there is no response to the second call within 1 minute, the aircraft station should, if it is necessary to dispose of the message urgently, be guided by the following procedures in the order given:

(*a*) Call the primary station twice at 15 second intervals on the secondary frequency.

(*b*) At 15 seconds intervals, call any standby station twice on the primary frequency and, if necessary, on the secondary frequency.

(*c*) Broadcast the message to "ALL STATIONS" on the primary frequency.

(*d*) Broadcast the message to "ALL STATIONS" on the secondary frequency.

(*e*) Continue attempts to establish contact with the network trying all stations and all appropriate frequencies. Before leaving the assigned primary and secondary frequencies, the aircraft station should announce the frequency to which it is shifting.

(*f*) On oceanic routes where ocean station vessels are located, attempt contact with these vessels on the appropriate frequencies.

(*g*) Monitor VHF 121.5 mcs. for calls from nearby aircraft, and attempt contact with other aircraft on this frequency.

5.4—*Distress Communications*

5.4.1—*General*

5.4.1.1 In the aeronautical mobile service, the distress communications procedures outlined below shall be used.

5.4.1.2 These procedures shall not, however, prevent the use by an aircraft in distress of any means at its disposal to attract attention, make known its position, and obtain help.

5.4.1.3 In handling distress traffic, the speed of transmission by radiotelegraph shall not, in general, exceed sixteen words per minute.

5.4.2—*Frequencies to be Used*

5.4.2.1 The first transmission of the distress call and message by the aircraft station shall be on the designated air-ground route frequency in use at the time.

5.4.2.2 If the aircraft station is unable to establish communication on the designated air-ground route frequency, any other available frequency shall be used in an effort to establish contact with any land, mobile or direction-finding station.

5.4.2.2.1 Before changing frequency, the aircraft shall transmit the signal QSW followed by the frequency to which it intends to change.

5.4.2.3 If time permits, an aircraft station, equipped to transmit on 500 kc/s., shall also transmit the distress call and message on the frequency in order to alert surface ships and coast stations which may be in the vicinity. (See 5.4.4.1 and 5.4.4.2).

Note.—International silence periods are observed on 500 kc/s from 15 to 18 and 45 to 48 minutes past the hour. Distress calls when transmitted on 500 kc/s will, therefore, have a better chance of being intercepted during these periods.

5.4.2.4 Aircraft desiring to communicate with stations of the maritime mobile service regarding search and rescue operations, shall use 8364 kcs.

5.4.3—*Distress Signal*

5.4.3.1 In radiotelegraphy, the distress signal shall consist of the group $\overline{SOS}$ transmitted as a single signal in which the dashes shall be emphasized so as to be distinguished clearly from the dots.

5.43.2 In radiotelephony, the distress signal shall consist of the word MAYDAY pronounced as the French expression "m'aider" and the Spanish expression "mede".

5.4.3.3 These distress signals shall indicate that the Aircraft sending the distress signal is threat-

ened by grave and imminent danger and requests immediate assistance.

5.4.4—*Alarm Signal*

5.4.4.1 When the international distress frequency of 500 kc/s is used, the distress call should, when practicable, be preceded by the alarm signal of twelve four-second dashes, with intervals of one second between each, using A2 emission.

5.4.4.2 When circumstances permit, the transmission of the distress call should be separated from the end of the alarm signal by an interval of two minutes. In this case, the alarm signal should be followed immediately by the distress signal SOS sent three times, in order to operate automatic apparatus, which may depend on the distress signal for actuation.

Note.—The ITU adopted for use in connection with the distress frequency of 500 kc/s an alarm signal consisting of twelve dashes, the duration of each dash being four seconds and the duration of the interval between consecutive dashes one second.

5.4.5—*Distress Call*

5.4.5.1 The distress call and message shall be sent only on the authority of the person in command of the aircraft.

5.4.5.2 The distress call sent by radiotelegraph shall comprise:

—the distress signal transmitted three times
—the word DE
—the call sign of the aircraft station in distress, sent three times.

5.4.5.3 The distress call sent by radiotelephony shall comprise:

—the distress signal MAYDAY spoken three times
—the words THIS IS
—the identification of the aircraft in distress spoken three times.

Note.—The distress call, when sent by radiotelephony, may be preceded by the signal SOS produced by a whistle or any other suitable means.

5.4.5.4 The distress call shall have absolute priority over other transmissions. All stations which hear it shall immediately cease any transmission capable of interfering with the distress traffic and shall listen on the frequency used for the emission of the distress call. This call shall not be addressed to a particular station and acknowledgement of receipt shall not be given before the distress message is sent.

5.4.6—*Distress Message*

5.4.6.1 The distress call shall be followed as soon as possible by the distress message. This message shall comprise:

(*a*) The distress call;

(*b*) The identification of the aircraft in distress;

(*c*) Particulars of its position (including, if time permits, estimated position, time of estimate; true heading; indicated air speed; altitude and type of aircraft);

(*d*) Nature of distress and kind of assistance desired;

(*e*) Any other information which might facilitate the rescue (this should include the intention of person in command, such as forced alighting on the sea or crash landing).

5.4.6.2 An aircraft in distress shall signal its position:

(*a*) If possible by latitude and longitude (Greenwich), using figures for the degrees and minutes, together with one of the words NORTH or SOUTH and one of the word EAST or WEST; or

(*b*) By the name of nearest place, and its approximate distance in relation thereto, together with one of the words, NORTH, SOUTH, EAST, or WEST, as the case may be, or, when practicable, by words indicating intermediate directions.

5.4.7 *Repetition of Distress Message*

5.4.7.1 The distress message shall be repeated in intervals by the aircraft station originating the same until an answer is received.

5.4.7.2 Any station of the aeronautical mobile service which is not in a position to render assistance and which has heard a distress message that has not been immediately acknowledged, shall take all possible steps to attract attention of other stations which are in a position to render assistance.

5.4.7.2.1 For this purpose, with the approval of the authority responsible for the station, the distress call or the distress message shall be repeated. This repetition shall be made on full power either on the distress frequency or on one of the frequencies authorized for use in distress. At the same time all necessary steps shall be taken to notify the authorities who may be able to intervene usefully.

5.3.7.2.2 A station which repeats a distress call or distress message, shall follow it by the word DE and its own call sign transmitted three times.

5.4.8—*Distress action by aircraft station in distress*

5.3.8.1 When an aircraft is threatened by grave and imminent danger, and requires immediate assistance, the person in command of the aircraft should direct appropriate action as follows:

(*a*) Turn on automatic emergency equipment if so provided;

(*b*) When radiotelegraphy is used, transmit the distress call, followed by the distress mes-

sage, two dashes of about ten seconds each, the call sign of the aircraft once and the signals AR and K;

(*c*) When radiotelegraphy is used, transmit the distress call, followed by the distress message two periods of about ten seconds each during which the microphone button remains depressed, the call sign of the aircraft once and the word OVER;

(*d*) When modulated telegraphy (A2) is available on radiotelephone frequencies, the distress signal SOS may be transmitted prior to the action specified in (*c*) above, or any other available methods may be employed to call attention to the distress incident (see Note to 5.4.5.3);

(*e*) Impose silence, if necessary, in accordance with 5.4.11.9.

5.4.8.2 Immediately prior to a forced or a crash landing of an aircraft, as well as before total abandonment, the radio apparatus should, if it is considered that there is no additional risk of fire and if circumstances permit, be set for continuous transmission.

5.4.9—*Distress Action by Aircraft other than the Aircraft in Distress*

5.4.9.1 An aircraft station becoming aware that another aircraft or other mobile station is in distress, should transmit the distress message when:

(*a*) The station in distress is not itself in a position to transmit the message; or

(*b*) The person in command of the aircraft which intervenes believes that further help is necessary.

5.4.9.2 Aircraft stations which receive a distress message from an aircraft which, beyond any possible doubt, is not in their vicinity, shall allow a short interval of time before acknowledging receipt of the message in order to permit stations nearer to the aircraft in distress to answer and acknowledge receipt without interference.

5.4.10—*Acknowledgement of Receipt of a Distress Message*

5.4.10.1 The acknowledgement of receipt of a distress message shall be given in the following form:

(*a*) *In radiotelegraphy:*

—call sign of the aircraft in distress (three times)
—the word DE
—call sign of the station acknowledging receipt (three times)
—group RRR
—distress signal SOS
—signal AR
—call sign of the station acknowledging receipt (once)

(*b*) *In radiotelephony:*

—identification of the aircraft in distress (three times)
—the words This is
—the identification of the station acknowledging receipt spoken three times
—the word ROGER
—the word MAYDAY
—the word OUT.

5.4.11—*Distress Traffic*

5.4.11.1 Distress traffic shall comprise all messages relative to the immediate assistance required by aircraft or other mobile station in distress.

5.4.11.2 In distress traffic, the distress signal shall be sent before the call and at the beginning of the preamble of any message.

5.4.11.3 The control of distress traffic shall be the responsibility of the aircraft station in distress or of the station which, by the application of the provision of 5.4.9.1, has sent the distress call. These stations may, however, delegate the control of the distress traffic to another station.

5.4.11.4 Any station which hears a distress call shall comply with the provisions of 5.4.5.4.

5.4.11.5 Any station of the aeronautical mobile service which has knowledge of distress traffic, shall follow the progress of such traffic, even if it does not take part in it.

5.4.11.6 For the entire duration of distress traffic, stations which are aware of this traffic and which are not taking part in it, shall not transmit on the frequencies on which the distress traffic is taking place.

5.4.11.7 A station of the aeronautical mobile service which, while following the progress of distress traffic, is able to continue its normal service, should do so when the distress traffic is well established and on condition that it observes the provisions of 5.4.11.6, and does not interfere with the distress traffic.

5.4.11.8 When distress traffic has ceased or when silence is no longer necessary, a station which has controlled such traffic shall initiate the cancellation of distress procedure (See 5.4.13.

5.4.11.9 *Imposition of silence*

5.4.11.9.1 The station in distress shall be permitted to impose silence either on all stations of the mobile service in the area or on any station which interferes with the distress traffic. It should address these instructions "to all stations" or to specific stations only, according to circumstances. In either case, it shall use the service abbreviation QRT followed by the distress signal SOS.

5.4.11.9.2 If it believes it to be essential, any station of the aeronautical mobile service near the aircraft in distress, shall also impose silence. It shall employ for this purpose the procedure pre-

scribed in 5.4.11.9.1, substituting for the distress signal the word DISTRESS followed by its own call sign.

5.4.12—*Distress Action by Aeronautical Stations*

5.4.12.1 Any station of the aeronautical service, which was last in contact with the distress aircraft and which receives a distress message from such aircraft, shall acknowledge its receipt at once. Other aeronautical stations which receive a distress message shall acknowledge receipt after waiting a reasonable time to permit the aeronautical station last in contact to answer without interference provided that no acknowledgement shall be required if the other aeronautical station has acknowledge that satisfactory communications have been established between another aeronautical station and the aircraft in distress.

5.4.12.2 Aeronautical stations acknowledging receipt shall take the following action:

(*a*) Forward the information immediately to the Area Control Center or Flight Information Center, and also to the aircraft operating agency if locally represented, unless arrangements exist whereby such information may be made available to it by other means. Such information shall include, if direction-finding facilities are available, any bearings taken on the aircraft in distress;

(*b*) Continue to guard the aircraft frequency last used, and, as far as possible, any other frequency which may be used by that particular aircraft. Under no circumstances shall the frequency last used by the aircraft be left unguarded. A continuous watch shall, if possible, be established immediately on the authorized international distress frequencies;

(*c*) Notify any direction-finding station which may be of assistance unless arrangements exist whereby the Air Traffic Services take this action on receipt of the information provided for in (*a*).

5.4.12.3 The aeronautical station last in contact with the aircraft or, in the event of this station not acknowledging the distress message, the first aeronautical station to acknowledge shall, in addition to the action prescribed in 5.4.12.2, take the following action:

(*a*) Handle distress traffic to, or from the aircraft station which transmitted the distress call and control of such traffic when authority to do so has delegated by that station, or when it has reason to believe that the aircraft in distress is not in a position to make any delegation or responsibility;

(*b*) When the aircraft in distress is over the sea, request by the most rapid means available, the nearest or most appropriate coast station to retransmit the distress message on 500 kc/s unless arrangements exist whereby the Air Traffic Services take this action on the receipt of the information provided for in 5.4.12.2 (*a*).

5.4.12.4 Other aeronautical stations which receive the distress message but do not acknowledge its receipt shall take action as follows:

(*a*) Continue to guard the aircraft frequency last used and establish a continuous watch on the authorized distress frequency until the provisions of 5.4.11.7 apply;

(*b*) Notify the nearest direction-finding stations which may be of assistance unless it is known that this action will be taken by an aeronautical station that has acknowledge receipt of the distress message;

(*c*) When the aircraft in distress is over the sea, request the nearest coast station to retransmit the distress message on 500 kc/s unless it is known that this action will be taken by an aeronautical station that has acknowledged receipt of the distress message;

(*d*) Observe the provisions of 5.4.5.4, 5.4.11.5, and 5.4.11.6.

5.4.13—*Cancellation of Distress*

5.4.13.1 When the aircraft is no longer in distress, the aircraft station shall transmit, on the same frequency, or frequencies on which distress message was sent, a message cancelling the state of distress. When it is no longer necessary to observe silence, or when the distress traffic is ended, the station which has controlled the traffic shall send on the message addressed "to all stations" (CQ), indicating that the distress traffic is ended and shall so inform the area traffic control center, the flight information center, and the aircraft operating agency if locally represented. This message shall take the following form:

(*a*) *In radiotelegraphy:*

—distress signal $\overline{\text{SOS}}$
—call "to all stations" (CQ) (three times)
—the word DE
—call sign of the station sending the message (once)
—time of handing-in of the message
—name and call sign of the aircraft station which was in distress (once)
—service abbreviation on QUM

—signal VA
—call sign of the station sending the message (once)

(*b*) *In radiotelephony:*

—the word MAYDAY
—the words "ALL STATIONS" (three times)
—the words THIS IS

—the identification of the station transmitting the message (once)
time of handing-in of the message
—name or identification of the aircraft which was in distress
—the words DISTRESS TRAFFIC ENDED
—the word OUT

5.4.13.2 If facilities for transmission on the international distress frequency are not available at the air-ground control radio station, the rescue service or other agency having the international distress frequency available shall be requested to transmit the message relative to cessation of distress traffic.

Note.—The following example illustrates the application of the Distress Communication procedures prescribed in 5.4. In this example, the distress traffic is controlled by the aeronautical station.

	TELEGRAPHY	TELEPHONY	
	Aircraft Station	*Aircraft Station*	
See 5.4.6	SOS SOS SOS DE DZPEC DZPEC DZPEC QTH 15 KM SE LAOAG QTI 270 QTJ 200 QAH 8000 FT MSL ENGINE FAILURE QUG	MAYDAY MAYDAY MAYDAY THIS IS FILAIRLINE DZPEC, FILAIRLINE DZPEC, FILAIRLINE DZPEC, MY POSITION ONE FIVE KILO METERS NORTH LAOAG TRACK FOUR FIVE SPEED TWO ZERO ZERO KNOTS, ALTITUDE EIGHT THOUSAND FEET ENGINE FAILURE DITCHING	See 5.4.6
		(2 periods of about 10 seconds during which microphone button remains depressed) FILAIRLINE DZPEC OVER	See 5.4.8.1 b)
	TELEGRAPHY	TELEPHONY	
	Aeronautical Station	*Aeronautical Station*	
See 5.4.10. (*a*)	DZPEC DZPEC DZPEC DE DUM DUM DUM RHR SOS AR CED	FILAIRLINE DZPEC FILAIRLINE DZPEC FILAIRLINE DZPEC THIS IS MANILA RADIO, MANILA RADIO, MANILA RADIO ROGER, MAYDAY, OUT	See 5.4.10.1 a)
See 5.4.11.2 5.4.11.9.2 5.4.11.9.3	SOS SOS SOS CQ CQ CQ DE DUM DUM DUM QRT DISTRESS DUM VA	MAYDAY MAYDAY MAYDAY ALL STATIONS ALL STATIONS ALL STATIONS THIS IS MANILA RADIO MANILA RADIO MANILA RADIO STOP TRANSMITTING DISTRESS MANILA RADIO OUT	See 5.4.11.9
	LATER		
	Aircraft Station	*Aircraft Station*	
See 5.4.13.1 1st sentence	SOS DUM DE DZPEC QTA DISTRESS MOTORS RUNNING AGN QRF DUMA DZPEC AR K	MAYDAY MANILA RADIO THIS IS FILAIRLINE DZPEC CANCEL DISTRESS, MOTORS RUNNING AGAIN, AM RETURNING TO MANILA, OVER	See 5.4.13.1 1st sentence
	Aeronautical Station acknowledges	*Aeronautical Station acknowledges*	
See 5.4.13.1a)	SOS CQ CQ CQ DE DUM . . . (time of handing in this message) DZPEC QUM VA DUM	MAYDAY ALL STATIONS ALL STATIONS ALL STATIONS THIS MANILA RADIO (time) FILAIRLINE DZPEC DISTRESS TRAFFIC ENDED, OUT	See 5.4.13.1*a*)

5.5.—*Urgency Communications*

5.5.1 In the aeronautical mobile service, the following urgency signals shall be used:

(*a*) In *radiotelegraphy*, three repetitions of the group XXX, sent with the letters of each group, and the successive group clearly separated from each other;

(*b*) *In radiotelephony*, three repetitions of the expression PAN.

5.5.2 The urgency signal shall precede the call from a station to indicate that the station calling has a very urgent message to transmit concerning the safety of a ship, aircraft or other vehicle, or of some person on board or within sight.

5.5.3 Where the urgency signal is used by an aircraft station, it should, as a general rule, be addressed to a specific station.

5.5.4 When used by an aircraft station, the urgency signal shall be sent only on the authority of the person in command.

5.5.5 The urgency signal has priority over all other communications, except distress, and all stations which hear it shall take care not to interfere with the transmission of messages which follow the urgency signal.

5.5.6 Stations which hear the urgency signal shall continue to listen for at least three minutes, after which, if no urgency message has been heard, they may resume normal service.

5.5.6.1 However, stations which are in communication on frequencies other than those used for the transmission of the urgency signal and of the call which follows it, may continue their normal work without interruption, provided the urgency message is not addressed to all stations (CQ).

5.5.7 The urgency signal shall be followed by a message giving further information.

5.5.8 When the urgency signal has been sent before transmitting a message which is intended for all stations and which calls for action by the stations receiving the message, the station responsible for its transmission shall cancel it as soon as it knows that action is no longer necessary. This message of cancellation shall likewise be addressed "to all stations" (CQ).

5.5.9 The aeronautical station acknowledging the urgency message from an aircraft shall, when this message does not contain specific addresses, forward the message and all subsequent information immediately to the Area Control Center or Flight Information Center.

5.6—*Safety Communications*

5.6.1 In the aeronautical mobile service, the following safety signals shall be used:

(*a*) In *radiotelegraphy*, three repetitions of the group TTT, sent with the letters of each group and the successive groups clearly separated from each other;

(*b*) In *radiotelegraphy*, the word SECURITE pronounced as the French word "securite", repeated three times.

5.6.2 The safety signal shall precede the call from a station to indicate that the station is about to transmit a message concerning the safety of navigation or giving important meteorological warnings.

5.6.2.1 The safety signal shall be addressed either to one or more specific stations or to all stations (CQ).

5.6.3 All stations hearing the safety signal shall continue to listen on the frequency on which the safety signal has been transmitted until they are satisfied that the message is of no interest to them. They shall not, moreover, make any transmissions likely to interfere with the message.

5.6.4 The aeronautical station acknowledging the safety message from an aircraft shall, when this message does not contain specific addresses, forward the message and all subsequent information immediately to the Area Control Center or Flight Information Center.

CHAPTER 6.—AERONAUTICAL RADIONAVIGATION SERVICE

6.1—*General*

6.1.1 The aeronautical radionavigation service comprises all types and systems of radionavigational aids in the aeronautical service.

6.1.2 An aeronautical radionavigational aid which is not in continuous operation, shall, if practicable, be put into operation on receipt of a request from an aircraft, any controlling authority on the ground, or an authorized representative of an aircraft operating agency.

6.1.2.1 Requests from aircraft should be made to the aeronautical station concerned on the air-ground frequency normally in use.

6.1.2.1.1 When radiotelegraphy is used, requests from aircraft shall be made using the appropriate Q signal.

6.2—*Direction-finding*

Introductory Notes

(1) Direction-finding stations work either singly or in groups of two or more stations under the direction of a main direction-finding station.

(2) A direction-finding station working alone can only determine the direction of an aircraft in relation to itself.

6.2.1 A direction-finding station working alone should give the following, as requested:

(1) True bearing of the aircraft, using the signal QTE or appropriate phrase;

(2) True heading to be steered by the aircraft, with no wind, to head for the direction-finding station using the signal QUJ or appropriate phrase;

(3) Magnetic bearing of the aircraft, using the signal QUF or appropriate phrase;

(4) Magnetic heading to be steered by the aircraft with no wind to make for the station, using the signal QUX or appropriate phrase.

6.2.2 When direction-finding stations work as a group or network to determine the position of an aircraft, the bearings taken by each station shall be sent immediately to the station controlling the direction-finding network to enable the position of the aircraft to be determined.

6.2.2.1 The station controlling the network shall, on request, give the aircraft its position in one of the following ways:

(1) Position in relation to a point of reference or in latitude and longitude, using the signal QTF or appropriate phrase;

(2) True bearing of the aircraft in relation to the direction-finding station or other specified point, using the signal QTE or appropriate phrase, and its distance from the direction-finding station or point, using the signal QGE or appropriate phrase;

(3) Magnetic heading to steer with no wind, to make signal for the direction-finding station or other specified point using the signal QUX or appropriate phrase, and its distance from the direction-finding station or point, using the signal QGE or appropriate phrase.

6.2.3 Aircraft stations shall normally make request for bearings, courses or positions, to the aeronautical station responsible, or to the station controlling the direction-finding network.

6.2.4 To request a bearing, heading or position, the aircraft station shall call the aeronautical station or the direction-finding control station on the listening frequency. The aircraft shall then specify the type of service that is desired by the use of the appropriate phrase or Q signal.

6.2.5 As soon as the direction-finding station or called by the aircraft station shall request transmission for direction-finding service or send the appropriate Q signal, and, if necessary, indicate the frequency to be used by the aircraft station, the number of times the transmission should be repeated, the duration of the transmission required or any special transmission requirements.

6.2.5.1 After changing, if necessary, to the new transmitting frequency, the aircraft station shall reply by sending its call sign, two dashes of about ten seconds of duration each and then repeating its call sign, unless some other period has been specified by the direction-finding station.

6.2.5.2 In radiotelephony, an aircraft station after reply from the station on the ground shall give its call sign and press the microphone button for two periods of approximately ten seconds unless another period has been specified by the station on the ground, or alternatively provide such other signal as may be requested or known to be required by the station on the ground. The transmission shall then end with the repetition of the aircraft call sign.

Note.—Certain types of VHF/DF stations require the provision of a modulated signal (voice transmission) in order to take a bearing.

6.2.6 When a direction-finding station is not satisfied with its observation, it shall request the aircraft station to repeat the transmission.

6.2.7 When a heading or bearing has been requested, the direction-finding station shall advise the aircraft station in the following form:

(1) the appropriate phrase or Q signal;

(2) bearing or heading in degrees in relation to the direction-finding station, sent as three figures;

(3) class of bearing; } (except in QDL
(4) time of observation, } procedure)

if necessary.

6.2.8 When a position has been requested, the direction-finding control station, after plotting all simultaneous observations, shall determine the observed position of the aircraft and shall advise the aircraft station in the following form:

(1) the appropriate phrase or Q signal
(2) the position
(3) class of position
(4) time of observation.

6.2.9 As soon as the aircraft station has received the bearing, heading or position, it shall repeat back the message for confirmation, or correction, except in QDL procedure.

6.2.10 When positions are given by bearing or heading and distance from a known point other than the station making the report, the reference point shall be an aerodrome, prominent town or geographic feature. An aerodrome shall be given in preference to other places. When a large city or town issued as a reference place, the bearing or heading, and the distance given shall be measured from its center.

6.2.11 When the position is expressed in latitude and longitude, groups of figures for degrees and minutes shall be used followed by the letter N or S for latitude and the letter E or W for longitude, respectively. In radiotelephony the words North, South, East or West shall be used.

6.2.12 According to the judgment of the direction-finding station, bearing and positions shall be classified as follows:

Bearings

Class A.—Accurate within + 2 degrees
Class B.—Accurate within + 5 degrees
Class C.—Accurate within + 10 degrees.

Positions

Class A.—Accurate within 5 nautical miles (9 km)

Class B.—Accurate within 20 nautical miles (37 km)

Class C.—Accurate within 50 nautical miles (92 km)

6.2.13 Direction-finding stations shall have authority to refuse to give bearings, headings or positions when conditions are unsatisfactory or when bearings do not fall within the calibrated limits of the station, stating the reason at the time of refusal.

6.2.14 An aircraft station requiring a series of bearings or headings, shall call the direction-finding station concerned, on the appropriate frequency, and request the service by signal QDL followed by other appropriate Q signals, except that when the series has commenced, the call signs of the stations may be omitted if no confusion is likely to arise.

CHAPTER 7.—AERONAUTICAL BROADCASTING SERVICE

7.1—GENERAL

7.1.1 *Broadcast material*

7.1.1.1 The text of broadcast material shall be prepared by the originator in the form desired for transmission.

7.1.2 *Frequencies and Schedules*

7.1.2.1 Broadcasts shall be made on specified frequencies and at specified times.

7.1.2.2 Schedules and frequencies of all broadcasts shall be publicized in the Aeronautical Information Publication. Any change in frequencies or times shall be publicized by NOTAM at least two weeks in advance of the change.* Additionally, any such change shall, if practicable, be announced, on all regular broadcasts for 48 hours preceding the change and shall be transmitted once at the beginning and once at the end of each broadcast.

* *Note.*—This does not prevent an emergency change of frequency when required in circumstances which do not permit the promulgation of a NOTAM at least 2 weeks in advance of the change.

7.1.2.3 Scheduled broadcasts (other than sequential collective type broadcasts), shall be started at the scheduled time by the general call. If a broadcast must be delayed, a short notice shall be transmitted at the scheduled time advising recipients to "stand by" and stating the approximate number of minutes of delay.

7.1.2.3.1 After definite advice has been given to stand by for a certain period, the broadcast shall not be started until the end of the stand-by period.

7.1.2.4 Where broadcasts are conducted on a time-allotment basis, transmission shall be terminated by each station promptly at the end of the allotted time period whether or not transmission of all material has been completed.

7.1.2.4.1 In sequential collective type broadcasts each station shall be ready to commence its broadcast at the designated time. If for any reason a station does not commence its broadcast at the designated time, the station immediately following in sequence shall wait an agreed period of time *, then commence transmission.

* *Note.*—The agreed period of waiting should be determined by individual networks and arrangements made for synchronization of clocks.

7.1.3 *Interruption of Services*

7.1.3.1 In the event of interruption of service at the station responsible for a broadcast, the broadcast shall, if possible, be made by another station until normal service is resumed. If this is not possible, and the broadcast is of the type intended for interception by fixed stations, the stations which are required to copy the broadcast shall continue to listen on the specified frequencies until normal service is resumed.

7.2—*Radiotelegraph Broadcast Procedure*

7.2.1 *Speed of Transmission*

7.2.1.1 Broadcasts intended for interception by fixed stations shall be conducted at a speed not in excess of 30 words per minute (or 18 groups per minute).

7.2.1.2 Broadcasts intended for interception by aircraft in flight shall be conducted at a speed not in excess of 25 words per minute (or 15 groups per minute).

7.2.2 *Automatic Broadcasts*

7.2.2.1 All stations which make scheduled broadcasts shall, if practicable, employ automatic equipment.

7.2.2.2 When automatic equipment is used, the broadcasts shall be made from perfectly perforated tape or from tape in which all errors detected in perforation have been patched out.

7.2.3 *Determining the Speed of Automatic Transmission*

7.2.3.1 The terms "words per minute" shall be used to refer to the reading of the tachometer of the keying head drive without regard to the composition of the transmitted material. The word PARIS perforated consecutively with each word separated by one space, shall be used in preparing tapes for purpose of calibrating the tachometer.

7.2.3.2 The terms "groups per minute" shall be used to indicate the speed at which material composed entirely, or predominantly, of figures is transmitted. The speed of transmission in groups per minute may be determined by perforating the

desired number of figure groups, each consisting of five figures, with one space separation between groups, and adjusting the keying head drive to transmit the required number of groups through the keying head in one minute.

7.2.4 *General Call (CQ)*

7.2.4.1 Scheduled broadcasts by radiotelegraphy shall be immediately preceded by CQ transmitted three times, followed by DE transmitted once, and the call sign of the transmitting station transmitted three times. The break signal BT shall be used to separate the call from the first part of the text, and to separate individual sections or bulletins.

7.2.5 *Monitoring*

7.2.5.1 In order to ensure that broadcasts are being made satisfactorily, adequate monitoring arrangements shall be made so that transmitter failures, garbled transmission or errors may be detected.

7.2.6 *Corrections*

7.2.6.1 When errors or imperfect transmission are detected during automatic radiotelegraph broadcasts, the tape shall be removed from the keying head and the defective portion corrected by hand transmission, using the letters "COR" to indicate correction.

7.2.6.2 Corrections by hand shall be made by transmitting the error signal, the last group correctly transmitted before the error, the correction, and three groups beyond the corrected portion. The tape shall then be reset three groups back from the last group transmitted by hand.

Examples:

Mutilated or garbled groups

12345 67/?4 14567 98764 12547

Transmission by hand.

EEEEEEEE 12345 67345 14567 98764 12547

Tape reset.

14567 98764 12547 (etc.).

7.2.7 *Use of operating signal "QRU"*

7.2.7.1 The operating signal QRU shall be used when material for a scheduled broadcast is not available for any reason.

7.2.8 *Use of procedure signal VA*

7.2.8.1 All scheduled broadcasts made by radiotelegraph shall end with the procedure signal VA.

7.2.9 *Repetition of Difficult Groups*

7.2.9.1 All groups of the text which are composed of a combination of figures and letters, or of difficult and unfamiliar terms, should be repeated once by use of the signal RPT.

7.3—*Radiotelephone Broadcast Procedures*

7.3.1 *Broadcast Technique*

7.3.1.1 Transmissions by radiotelephone shall be as natural, short and concise as practicable consistent with clarity.

7.3.1.2 Rate of speech on radiotelephone broadcasts shall not exceed 100 words per minute.

7.3.2 *Preamble of the General Call*

7.3.2.1 The preamble of each radiotelephone broadcast shall consist of the general call, station name, and optionally the time of broadcast (GMT).

Example:

General Call - - - - - - - -	"ALL STATIONS"
The words THIS IS - - - -	THIS
Station Name - - - - - - - -	MANILA RADIO
Time of Broadcast - - - - -	TIME, ZERO ZERO FOUR FIVE

7.4—*Radioteletype Broadcast Procedures*

7.4.1 *Preamble*

7.4.1.1 Each station, prior to commencing a scheduled broadcast, shall run a preliminary call tape consisting of the general call to all stations, transmitted there times, the procedure signal DE, the identification of the calling station, transmitted three times, followed by the letters RY repeated without separation for one line.

7.4.1.2 This call tape should be run for approximately two minutes prior to each scheduled broadcast.

Note.—The following example illustrates the application of this procedure:

CQ CQ CQ DE DUM DUM DUM (2 CR) (LF)
RYRYRYRYRYRYRYRYRYRYRYRYRY (2 CR) (LF)

7.4.2 *Marking Transmissions*

7.4.2.1 Stations operating on a continuous basis, or operating during a definitely assigned period, shall run a stand-by or call tape during the time no traffic is on hand for transmission. This tape shall be the same as prescribed in 7.4.1.1 above.

7.4.2.2 After running the call tape for approximately two minutes, the broadcast shall begin precisely at the scheduled time, as follows:

Example:

(2 CR) (LF)
CQ CQ CQ DE DUM DUM DUM (2 CR) (LF)
091517 (2 CR) (LF)
THIS IS AN EXAMPLE OF A BROADCAST (2 CR) (LF)
PREPARED FOR RADIOTELETYPE TRANSMISSION (2 CR) (LG)
COR (When necessary) (2 CR) (6 IF)
END (16 LTRS)

7.4.2.3 Broadcasts shall be made from perfectly perforated tapes or tapes that have been perfectly corrected, obviate any confusion arising from errors or incorrect groups.

7.4.3 *Corrections*

7.4.3.1 Errors in the tape shall be corrected by back spacing and eliminating the incorrect groups by means of operating the LTRS key over the undesired portion. When an error is detected and cannot be otherwise corrected, a correction shall be transmitted at the end of the broadcast, immediately preceding the word END. The letters "COR" shall be used to indicate a correction.

CHAPTER 8.—PENALTIES

8.1 *Penalties in respect of violation of any of the pertinent provisions of Republic Act No. 776, or other, or regulations.*—Any person who shall violate any provisions of these rules and regulations shall be dealt with in accordance with the provisions of Chapter VII, Republic Act No. 776, approved June 20, 1952.

CHAPTER 9.—EFFECTIVITY OF REGULATIONS

9.1 *Effectivity Date of Regulations.*—The regulations shall take effect upon its approval.

9.2 *Inconsistent Regulations.*—All rules and regulations inconsistent with the provisions hereof are hereby repealed.

9.3 *Rules and Regulations Repealed.*—These rules and regulations (Civil Air Regulations Part 10-B) supersede the provisions of Aeronautics Bulletin No. 7 effective as amended on January 21, 1948 and Supplement to Aeronautics Bulletin No. 7 approved March 18, 1948.

VICTOR H. DIZON
(Lt. Col., PAF)
Acting Administrator

Approved:

OSCAR LEDESMA
Secretary of Commerce and Industry

Central Bank of the Philippines

Lists of Legal Parities and/or Exchange Rates as of March 1954 of the Various Foreign Currencies in Terms of the U.S. Dollar and the Philippine Peso.

Member Countries with par values	Unit	Equivalent in U. S. currency	Equivalent in Philippine currency
Australia	Pound	$2.240	₱4.480
Austria	Schilling	.03846	.07692
Belgium	Franc	.020	.040
Bolivia	Boliviano	.00526	.01052
Brazil	Cruzeiro	.054	.108
Burma	Kyat	.210	.420
Ceylon	Rupee	.210	.420
Chile	Peso	.00909	.01818
Colombia	Peso	.5128	1.0256
Costa Rica	Colon	.178	.356
Cuba	Peso	1.000	2.000
Denmark	Krone	.145	.290
Dominion Republic	Peso	1.000	2.000
Ecuador	Sucre	.067	.134
Egypt	Pound	2.872	5.744
El Salvador	Colon	.400	.800
Ethiopia	Dollar	.402	.804
Finland	Markka	.004	.008
Germany, Fed. Rep. of	Deutsche Mark	.238	.476
Guatemala	Quetzal	1.000	2.000
Honduras	Lempira	.500	1.000
Iceland	Krona	.061	.122
India	Rupee	.210	.420
Iran	Rial	.031	.062
Iraq	Dinar	2.800	5.600
Japan	Yen	.0028	.0056
Jordan	Dinar	2.80	5.60
Lebanon	Pound	.456	.912
Luxembourg	Frank	.020	.040
Mexico	Peso	.116	.232
Netherlands	Guilder	.263	.526
Nicaragua	Cordoba	.200	.400
Norway	Krone	.140	.280
Pakistan	Rupee	.302	.604
Panama	Balboa	1.000	2.000
Paraguay	Guarani	.067	.134
Sweden	Krona	.193	.386
Syria	Pound	.456	.912
Turkey	Lira	.357	.714
Union of South Africa	Pound	2.800	5.600
United Kingdom	Pound	2.800	5.600
United States	Dollar	1.000	2.000
Venezuela	Bolivar	.2985	.597
Yugoslavia	Dinar	.0033	.0066

SOURCE OF BASIC DATA: International Financial Statistics, February 1954.

Member Countries without par values	Unit	Equivalent in U. S. currency	Equivalent in Philippine currency
Canada	Dollar	$1.03	₱2.06
China	Yuan	.....	.....
* Czechoslovakia	Koruna	.139	.278
France	Franc	.003	.006
Greece	Drachma	.000033	.000066
Haiti	Gourde	.20	.40
Italy	Lira	.0016	.0032
Peru	Sol	.....	.....
Certificate		.0503	.1006
Draft		.0501	.1002
Thailand	Baht	.....	.....
Official		.0797	.1593
Free		.0472	.0944
Uruguay	Peso	.....	.....
Basic Official		.526	1.052
Special		.408	.816

SOURCES OF DATA: International Financial Statistics, February 1954.
* Current Market Quotations

Member Countries without par values	Unit	Equivalent in U. S. currency	Equivalent in Philippine currency
Argentina	Peso		
Basic		$.133	P.266
Preferential		.200	.400
Free		.072	.144
Curb		.0476	.0952
Indo China	Piastre	.029	.058
Indonesia	Rupiah		
Official:			
Basic, Non-dollar		.087	.174
Basic, dollar		.085	.170
Ireland	Pound	2.8106	5.6212
Israel	Pound		
Principal rate		.56	1.12
Other rates		(2.80 (1.00	((5.60 (2.00
South Korea	Hwan	.0167	.0334
New Zealand	Pound	2.770	5.540
* Poland	Zloty	.25	.50
Portugal	Escudo	.035	.070
* Rumania	Leu	.089	.178
Spain	Peseta		
Basic Selling		.089	.178
Preferential Selling		.04	.08
Free		.026	.052
Switzerland	Franc	.233	.466

* Current Market Quotations.

SOURCE OF DATA: Interntional Financial Statistics, February 1954.

Non-Metropolitan areas	Unit	Equivalent in U. S. currency	Equivalent in Philippine currency
Hongkong	Dollar	$.175	P.35
British North Borneo, Malaya, Sarawak, Brunei	Dollar	.327	.654

SOURCES OF DATA: International Financial Statistics, February 1954.

* Current Market Quotations.

G. L. RIALP
Acting Director
Foreign Exchange Department

APPOINTMENTS AND DESIGNATIONS

BY THE PRESIDENT OF THE PHILIPPINES

(Confirmed by the Commission on Appointments)

April 7, 1954

Manuel Gonzales as Chairman and Eleuterio Adevoso, Jose P. Giron, and Raoul Beloso as Members of the Board of Directors of the Philippine Charity Sweepstakes Office.

Telesforo Tenorio as Chief of the Manila Police Department.

April 21, 1954

Eleuterio Adevoso as Secretary of Labor.

Jaime Ferrer as Undersecretary of Agriculture and Natural Resources.

Felixberto M. Serrano as Envoy Extraordinary and Minister Plenipotentiary.

Rizal G. Adorable as Foreign Affairs Officer, Class IV.

Marcos Resiña as Governor of Bukidnon.

Ramon Nolasco as Governor of Lanao.

Bado Dangwa as Governor of Mt. Province.

Leon L. Fernandez as Governor of Sulu.

Domingo Bailon as Mayor and Jose Alcala and Eduardo Jana as Councilors of Legaspi City.

Nestor Jalandoni as Vice-Mayor and Jose Cocjin, Severino Bacaling, Domingo Mabunay, Venancio Bañares, and Claro Gil as Members of the City Council of Iloilo City.

Primo Annuat and Rosendo E. Santos as Members of the City Council of Cavite City.

Eduvigio Ruperto as Member of the City Council of Dumaguete City.

Paciano Bangoy and Clementino Palanca as Members of the City Council of Davao City.

Nicanor Ramirez, Romulo Lucasan, Martin Manahan, Anacleto Madrilejo, Felipe Cabrera, and Reynaldo Ermita as Members of the City Council of Quezon City.

Pedro Aure Alegre, Feliciano Caparas, and Lino Salazar as Members of the City Council of Tagaytay City.

Francisco Ladero, Cesareo Ortiz, Primitivo Gonzaga, Filomeno Mancol, Mariano Sagadal, Crispina de Guia, Fructo Lentejas, and Augusto Perez as Members of the City Council of Calbayog City.

Cleto Evangelista and Rafael Mejia as Members of the City Council of Ormoc City.

Horacio Velasco as City Secretary of Tagaytay City.

Romeo Villanueva as Chief of Police of Tagaytay City.

Ilustre Reyes as Chief of Police of Cavite City.

Celso Fernandez as Chief of Police of Basilan City.

Leon Gamboa as Chief of Police and Fire Department of Roxas City.

Gregorio Mejia as Chief of Police of Dagupan City.

Romeo Maghirang as Chief of Police of San Pablo City.

Miguel Lina as Chief of Police of Lipa City.

Ciriaco Porcadilla as Chief of Police of Ormoc City.

Eufronio J. Llanto as Chief of Police of Iligan City.

Eugenio Torres as Deputy Chief of the Manila Police Department.

Enrique Morales as Detective Chief of the Manila Police Department.

Segundo Carillo as Justice of the Peace of Dalaguete, Cebu.

Constante Peralta as Justice of the Peace of Molave, Zamboanga del Sur.

Sinfronio Ancheta as Justice of the Peace of Alcala, Pangasinan.

Fidencio Gapusan as Justice of the Peace of Candon, Ilocos Sur.

Hilario F. Hilario as Chairman of the Philippine Veterans Board.

Eligio Tavanlar as Chairman and Jaime Ferrer, Eugenio Reyes, Bienvenido Castillo, and Manuel Q. Tinio as Members of the LASEDECO Board of Directors.

Roberto Soler as Member of the Board of Directors of the ACCFA.

Father Francisco Avendaño as Member of the Board of Pardons and Parole.

Tomas Cabili as Colonel in the Reserved Force of the AFP.

(Nominations submitted to the Commission on Appointments for Confirmation)

April 21, 1954

Enrico Palomar as Assistant Director of the Bureau of Posts.

April 22, 1954

Primitivo Buagas as Governor of Cotabato.

Felix Talabis as Second Deputy Commissioner of the Bureau of Immigration.

Mrs. Frine Zaballero as Solicitor in the Office of the Solicitor General.

Teofilo Sanchez, Godiardo Guillen, and Vicente Galicia as Members of the City Council of Butuan City.

Ramon Dado, Jr., as Provincial Treasurer of Bataan.

Leonardo Gutierrez as Provincial Treasurer of Batangas.

Pio Advincula as Provincial Treasurer of Bulacan.

Antero Oida as Provincial Treasurer of Camarines Norte.

Melecio Palma as Provincial Treasurer of Camarines Sur.

Rodrigo Amistoso as Provincial Treasurer of Capiz.

Miguel Yuvienco as Provincial Treasurer of Cavite.

Leon C. Miraflores as Provincial Treasurer of Iloilo.

Nicolas Galvez as Provincial Treasurer of Laguna.

Matias M. Reyes as Provincial Treasurer of Lanao.

Antonio N. Zabala as Provincial Treasurer of Leyte.

Tomas Velarde as Provincial Treasurer of Marinduque.

Simeon Bolano as Provincial Treasurer of Masbate.

Jose L. Recio as Provincial Treasurer of Misamis Oriental.

Ireneo Lapres as Provincial Treasurer of Negros Occidental.

Pedro Encarnacion as Provincial Treasurer of Nueva Ecija.

Francisco Dimatera as Provincial Treasurer of Palawan.

Marcos Jorge as Provincial Treasurer of Pampanga.

Andres M. Llames as Provincial Treasurer of Quezon.

Pedro K. Coronel as Provincial Treasurer of Rizal.

Andres Serrano as Provincial Treasurer of Romblon.

Eulalio Dolojan as Provincial Treasurer of Samar.

Bernardino C. Mendoza as Provincial Treasurer of Sorsogon.

Sixto Castillo as Provincial Treasurer of Surigao.

Baltazar C. Aguirre as Provincial Treasurer of Zambales.

Ciriaco Latonero as Provincial Treasurer of Zamboanga del Norte.

Pedro L. Herrera as Provincial Treasurer of Zamboanga del Sur.

Simplicio Montaño as City Treasurer of Bacolod City.

Ciriaco Escasa as City Treasurer of Cabanatuan City.

Primitivo Rondina as City Treasurer of Cagayan de Oro City.

Constancio Ferranco as City Treasurer of Calbayog City.

Miguel Jardiel as City Treasurer of Cavite City.

Zacarias Orde as City Treasurer of Dansalan City.

Panfilo Dunque as City Treasurer of Davao City.

Marcelino Navaleza as City Treasurer of Lipa City.

Zoilo Balmaceda as City Treasurer of Naga City.

Jose Elayda as City Treasurer of Pasay City.

Simon Magpantay as City Treasurer of San Pablo City.

Doroteo Toledo as City Treasurer of Tagaytay City.

Jose Quirolgico as City Treasurer of Zamboanga City.

April 23, 1954

Dominador Quiroz as Justice of the Peace of Dinalupihan, Bataan.

Salvador Peralta as Justice of the Peace of Washington, Capiz.

Leopoldo Peñera as Justice of the Peace of Tupi, Cotabato.

Julio Garcia as Justice of the Peace of Dinaig, Cotabato.

Godofredo Cabahug as Justice of the Peace of Hagonoy, Davao.

Vicente Cavalida as Justice of the Peace of Malalag, Davao.

Ignacio Lambo as Justice of the Peace of Doña Alicia, Davao.

Orlando Rimando as Justice of the Peace of Governor Generoso, Davao.

Juan Guevarra as Justice of the Peace of Babak, Davao.

Augusto Arreza as Justice of the Peace of Madrid, Surigao.

Peter Monakil as Auxiliary Justice of the Peace of Magdalena, Laguna.

Jose Rendon as Clerk of Court of Surigao.

HISTORICAL PAPERS AND DOCUMENTS

PRESIDENT MAGSAYSAY'S SPEECH READ BY ASSISTANT EXECUTIVE SECRETARY MARIANO YENKO, JR., AT THE PACIFIC REGIONAL SEMINAR OF THE UNESCO, MALACAÑANG PARK

April 4, 1954

Mr. CHAIRMAN, LADIES, AND GENTLEMEN:

ON behalf of my countrymen, allow me to greet and welcome the distinguished guests who have come from over the seas to attend this important gathering.

To my mind, nothing points more clearly towards the achievement of the aims of the United Nations than this collective effort among men of different races and convictions to thresh out common problems, to the end that greater understanding shall prevail among the peoples of the world.

At the same time, permit me to express the hope that the purposes for which this conference was called will be realized and that significant results will follow.

In common with the rest of the free world, we adhere firmly to the ideals of the UNESCO.

We believe in international cooperation.

We believe that one way of achieving this cooperation is through the reciprocal exchange of cultural and scientific knowledge.

We believe in the value of education as a tool for the elimination of mutual suspicions and antagonisms among men of varying creeds and color.

We believe, finally, that all efforts along this direction will contribute in a significant degree to the attainment of peace and security which we all desire.

The subject of your seminar is "Education for International Understanding." I am aware of the difficulties to be encountered in projects of such broad aims and scope. But it is a task that must be done, for ultimately, this kind of education may be the test of a nation's fitness to survive in the modern world.

Only through education—and the tools which it provides—can we hope to deal intelligently with the confusing issues posed by the times in which we live.

In a world as divided as ours, we are faced at every turn with a choice and a decision—and each decision may affect the lives and fortunes of men for generations to come.

It is necessary that we should be able to deal adequately with such issues; to see through half-truths and evasions;

to recognize the deliberate lies and falsehoods fashioned by men of ill-will and little faith. Education must provide the answer.

To be completely effective, however, this kind of education must start at the grass roots. It must start with the little people who form the bone and muscle of any democratic community.

I am concerned particularly with the problem of basic education—or what you would call fundamental education. In 1949, the Joint Congressional Committee on Education issued a report on the status of elementary education in the Philippines. The facts provided by this congressional committee were, to say the least, shocking, and it was mitigated only by the fact that the same unfortunate situation existed in such countries as Mexico, Peru, Bolivia, and Puerto Rico, among others.

The committee estimated that out of every 100 pupils who started out in Grade I before 1939, only six reached first year high school. Of the 94 who never stepped out of elementary school, 14 reached Grade VII, 18 reached Grade VI, 26 reached Grade V, 45 reached Grade IV, 58 reached Grade III, and 72 reached Grade II.

In other words, only a negligible number of children who start school manage to acquire the minimum requirements for a basic education.

I believe that a complete elementary education is a necessity for literacy—that is to say, not just the ability to read and write but the capacity to participate fully in the life of the community.

In my country, this problem is complicated by the fact that instruction in the lower grades is carried on in a tongue not native to us. This means that the student who does not get beyond Grade IV has spent all of his time wrestling with the complexities of English grammar, instead of studying the facts of his own environment and learning to adapt himself to it.

I do not mean to criticize a system of education which—whatever its shortcomings—has succeeded well in teaching us the principles of democracy. But I believe that this learning process could be made more pervasive, such that the common people shall be more fully prepared to absorb and practice the ways of a truly democratic life.

No nation can exist half-slave and half-free. It is just as true to say that no nation can exist half-literate and half-ignorant, for today's potential slaves are those who, by lack of training in the democratic practices, become easy victims to the blandishments of corrupt ideologies.

We have made a fair start in correcting those shortcomings—though not as quickly as we would wish—and

by other means have sought to fill the gaps left by the defects in our educational system. Through these efforts, I may say that at no time have our people had a greater sense of "belonging." Today they are direct participants in the great task of building a strong and prosperous nation.

I cannot end without expressing my gratitude to the great body to which this gathering belongs. For it is largely through the help of the UNESCO that we found the indicated solutions to our most important educational problem. It has also given us a lesson on the value of international cooperation.

I wish you success.

PRESIDENT RAMON MAGSAYSAY'S SPEECH AT THE LAYING OF THE CORNERSTONE OF THE NATIONAL PRESS CLUB BLDG.

April 4, 1954

OFFICERS OF THE NATIONAL PRESS CLUB,
MY FRIENDS OF THE PRESS,
LADIES AND GENTLEMEN:

I CANNOT think of a more pleasant and satisfying task than the one I have just been called upon to perform. The cornerstone we have just laid represents another concrete step towards the erection on this site of a building that will be a monument to the vitality and vigor of our press, a symbol of its basic unity, and the center of its activities and efforts that will serve to increase that vitality and strengthen its unity.

Laying a cornerstone, however, is just the beginning of a difficult task that will require the most and the best that is in you. You will face many trying problems and many tedious chores. I assure you that at every turn, you will meet with the assistance, understanding, and sympathy of this administration, beginning with myself. But the larger burden of seeing this project through will be yours. The patience and unflagging enthusiasm which alone can sustain it to completion will have to come from you.

The most important thing is that you must be united. I understand you have just held your election of officers, and that it was a spirited and lively affair. That is as it should be, whenever free men gather together to choose freely and honestly from their own ranks those with whom to entrust authority and responsibility. It should also be, however, that after the last word of debate has been uttered and the last vote counted, the decision should be respected and all should close ranks. This is the duty that clearly confronts each and everyone of you now—to work with one another, support one another, help one another towards the realization of this cherished project.

All of you know that it was the past administration—of course with the whole-hearted cooperation of what was then the minority—that made possible the grant of this property on which to construct your building. Under this new administration, you may depend on the same—if not greater measure of support and cooperation. This continuity shows that the welfare and advancement of the press, the enhancement of its prestige, and the promotion of the well-being of its members, are the concern, not of impermanent administrations, but of the government, of the people whom the government represents. It is to the people that the press owes the assistance it has obtained and will continue to receive on this project, and it is to them only that it has to pay its debt in the only currency that its creditors will accept—faithful and honest reporting. To no one else should the press feel beholden or indebted.

I wish to reiterate, for my part and on behalf of this administration, that we expect the press to continue doing its duty—to report the facts honestly, fearlessly, and accurately, never sparing evil and ever encouraging what is good and just. This—no more and no less—is what all of us have a right to expect from our press, and this I know we will get from it.

There is much work ahead. With patience and determination, with enthusiasm and unity, you can and you will carry through. I hope next year's convention will be held at the National Press Building that will have arisen here. One privilege I should like to reserve, God willing, is that of being with you when you do inaugurate that building. I look forward to sharing with you the felicity of that day.

COMMENCEMENT ADDRESS OF PRESIDENT RAMON MAGSAYSAY AT THE UNIVERSITY OF THE PHILIPPINES

April 6, 1954

PRESIDENT TAN,
MEMBERS OF THE BOARD OF REGENT AND THE FACULTY,
MEMBERS OF THE GRADUATION CLASSES,
LADIES AND GENTLEMEN:

I HAVE heard some criticisms of certain kinds of speakers at college commencements. One kind, it is said, is the speaker who does not care if his audience is interested or not as long as he can grasp the opportunity to speak on some favorite subject. His mouth is turned to the audience, but his eye is on tomorrow's headlines. Another kind, they complain, is the one who uses the same beautiful language each semester, expressing wonderful sentiments which he does not believe and which his audience soon forgets.

It is my hope to escape both these criticisms. I wish to speak to you briefly about something that is definitely your business, about something that is your responsibility as well as your opportunity.

When I said recently that this university is a vital source of our national leadership, I was not trying to pay a polite compliment. It is my sincere conviction that this is the fundamental reason for the existence of a state institution of higher learning. The University of the Philippines is your government's crowning effort in the task of national education, in the function of molding the nation's youth into sound, useful citizens. There are many fine private institutions which help out in this job, but it is here that the high standards must be set and the steady pace maintained. It is here that your democratic government tries to produce the ideal citizen, possessing the skills and the character to carry on the fruitful progress of our way of life.

I am sure that most of you have understood this objective during the years you have spent on this campus. I hope that few of you thought the job would be done when you received your degrees. If there are any here who believe that the prestige of academic honors automatically will bring them success and happiness, I can tell them now that they will be frustrated and disappointed.

Actually, your job has just begun. You now leave the world of ideas and enter the world of deeds. The ideas, if you absorbed them properly, have equipped you for the deeds that are expected of you. I sincerely pray that you will not disappoint those expectations.

You have heard it said again and again that your homeland is a young and growing nation. This is true, and it is more than a figure of speech. As time is counted in the life of nations, we have just achieved manhood; we have achieved the sovereignty and independence that means we now stand as an adult member of the family of nations. The position we win and hold in that family of nations depends upon you and upon me and upon every other Filipino.

What are this nation's objectives? Let us try to express them simply and modestly.

We hope to draw upon our heritage to become materially self-supporting and self-reliant. We hope to find the time and the means to develop our spiritual resource into a culture that is distinctive and distinguished. We hope, by achieving these goals, and by our participation in the affairs of the world, to win the respect and esteem of the other members of the family of nations.

These are modest and realistic goals. We must and can reach them, if only we keep them constantly in mind, and

never forget that each of us is an essential part of the whole nation. Your government alone cannot do the job. It can provide the guidance, the organization, the leadership, but it cannot provide the great creative force that is in the heads and hands and hearts of you and your fellow countrymen.

We are not a poor nation. We simply have not yet learned how to turn our human and material wealth into a form that can provide all of us with the basic essentials of a decent standard of living. There are many among us who have demonstrated that they have the ability as individuals to do this. There are many among you who have acquired those abilities. What needs to be done now is to concentrate and organize all our abilities into a national effort. Your government's recently completed plan of economic development is a step in that direction.

Much work must go into realization of our plans, and progress will not be immediate or spectacular. It will take all of our skill and ingenuity as a people. It will take a high sense of community responsibility. But the rewards will more than justify everything that we put into it.

There is a temptation, as we approach this task, to look for short-cuts, for easier and quicker ways to reach individual goals. These temptations must be rejected if the easy way does not meet the test of honest examination. You must ask yourself: Does it benefit the nation or only myself? Is it at somebody else's expense? Does it meet my personal standards of honesty, justice, and fairplay? If the answer to any of these questions is unsatisfactory, the temptation must be resisted. There is no legislative substitute for the Golden Rule.

For our material growth, we need new production, new enterprise, new initiative, and imagination. Some of this can come from outside our land, but most of it must come from ourselves. Your government has concentrated its opening approach on the rural areas. This has been done in the firm conviction that there can be no national growth unless this 75 per cent of our population is tapped for its full labor potential, unless it is helped toward a rising standard of living which, in turn, will furnish the purchasing power for expanding domestic production and trade.

But this preliminary effort can only be considered as improving the economic health of our young nation. The real test comes when we enter the competitive world, when we take our place as mature participants in world commerce and affairs. In this phase of our national existence and development, youthful vigor and enthusiasm alone are not enough. Here, for survival and strength, we need not only the full power of our material resources, but of

our moral and spiritual assets as well. The position we achieve will be determined not only by our abilities but by our reputation in all aspects of world citizenship.

Early in these remarks, I mentioned the role of this university in helping to mold character. The importance of this role cannot be over-emphasized, because character is a real and practical asset if it is sound, but a dangerous weakness if it is unstable. And our character as individuals will determine our character as a nation.

We have stated in our foreign policy that we propose to seek and encourage new relationships and friendships with national neighbors who share our basic ideals of freedom and friendly cooperation. Let us make no mistake about it: such new relationships will bring our national character under close examination. We shall be judged as a nation much the same as you have judged new acquaintances in your classes—and for the same reason. Friendship is—not like a water faucet that can be turned on and off. We do not want friends who turn to us only when it suits their momentary convenience. We want friends who not only profess respect for honesty and loyalty but who use them as guides for everyday existence.

As individuals, we do not try to make close friends who are abnormally sensitive, who have quick tempers and unpredictable moods. We do not admire those who claim friendship but bring to our dealings the hard and sharp methods of strangers in a market-place. We do not try to cultivate the arrogant or those who take advantage of position to deprive others of their rights. We avoid the loud voice and insulting tongue. We do not become too closely involved with those whose sense of honesty and devotion to moral principle is doubtful.

On the other hand, we are attracted to those who have an air of quiet self-confidence, who are firm in defense of their own rights but who are just in respecting the rights of others. We do not expect opinions and attitudes to be always in agreement, but we appreciate the companion who listens with patience and understanding to our side, as we listen to his. We feel secure and at ease with one who has a reputation for integrity and stability.

These likes and dislikes reveal our character as a people. They are the cultural heritage of our race, tested and refined by the wisdom of our fathers. They are the principles and ideals which we try to pass on to our children as indispensable equipment for coping with the problems of later life.

These are the qualities which must be reflected in our national behavior, the virtues and ideals which truly represent the national character. To compromise with them

for expediency may bring a brief and temporary advantage, but we shall not escape paying the price and penalty at a later date.

This is the trust and obligation you take with you today. It is your responsibility and your strength. I know you will protect and add luster to this priceless heritage.

PRESIDENT MAGSAYSAY'S "BATAAN DAY" SPEECH
April 9, 1954

DISTINGUISHED GUESTS,
LADIES AND GENTLEMEN:

TWELVE years ago, the armed forces radio on Corregidor, known as the Voice of Freedom, broadcast its last bitter message to the world.

It said: "Bataan has fallen."

Many have asked since, "Why should we commemorate a defeat? Why should we keep alive the painful memory of Bataan?"

Part of the answer to these questions was given by the Voice of Freedom on that same fateful broadcast.

We recall those words now. "What sustained the men of Bataan through these months of incessant battle,"—said the message—"was a force that was more than physical. It was the force of an unconquerable faith—something in the heart and soul that physical hardship and adversity could not destroy . . . . The spirit that made Bataan stand cannot fall."

It is this spirit of fortitude, endurance, and faith that we commemorate when we observe the fall of Bataan.

In this sense, Bataan is one of the great triumphs of man. It has become a symbol of the power of the human spirit to rise above adversity, a symbol of its capacity to survive against the dark forces which seek its destruction.

This priceless spirit was what impelled our American friends and allies to fight their way back, through a hundred outposts of heroism, across the Pacific. And it was also this spirit which enabled our own people to stay in the hills and mount an increasingly victorious battle against the powerful enemy.

But if Bataan has been a triumph, it has also taught us—in the years since—a very stern lesson. And this is, that it would be foolish—and perhaps fatal—to remain complacent against our enemies, potential and actual.

Three months ago, we said that our first and principal concern was the security of the nation. Nothing has changed in our situation since then. The same urgency prevails. If we repeat this now, it is only to emphasize

the necessity for adequate solutions as it lies in our power to make them.

We must, therefore, exert all our efforts towards the strengthening of our defenses. It is my grave responsibility, as chief executive, to see to it that the state is kept secure against all internal and external threats. I mean to discharge this responsibility with energy and decision.

The fresh outbreak of Communist activity in neighboring countries underscores the fact that this peril—far from lessening—has been creeping forward at a steady pace.

Nor should the apparent inactivity of the Communists within our own borders fool us. It is true that we have crushed the striking power of the Huk armies as a military force. But their power to corrupt the mind remains. The Huks, in short, have ceased to be a force without ever ceasing to be a threat.

We stress this struggle for internal and external security because it is undeniably a part of the trust we have inherited from the defenders of Bataan.

The men whose graves lie on Mount Samat died to maintain the integrity of our frontiers and in this way preserve for us and our descendants the continued blessings of the democratic way of life which we have chosen for ourselves.

In the fight against Communism, we have found ourselves ranged beside a nation whose sons—together with ours—died on this same spot twelve years ago.

We are happy to think that by that single act of common sacrifice, America and the Philippines have forged a further link in a relationship already unique in the history of nations.

This occasion—and the memories it evokes of a great joint undertaking—attests to the strength of the traditional friendship between our two peoples. It is our hope that in the years to come, the American and the Filipino people will continue to face their common problems and common perils in the same spirit of loyalty to democratic ideals which guided the men of Bataan.

PRESIDENT MAGSAYSAY'S POLICY STATEMENT
April 18, 1954

THE PHILIPPINE government agrees in principle with the United States' proposal to issue a joint declaration against Communist aggression in Indo-China.

Our first concern is, as it has always been, our national security. This concern today has become more grave with the deepening crisis in Indo-China.

In the interest of our national security, it is our duty to strengthen ourselves in every way. But in the face of the Communist peril in Asia, it has also become our great duty to multiply our strength through joint action with our allies in the free world. It is particularly important to maintain our alliance with the United States, which is today the principal bulwark of the free world against Communist aggression and tyranny.

In the Indo-China crisis, however, there is an element which is of great concern to the Philippines as an Asian country. This is the political element of independence of the peoples of Indo-China.

I believe that the proposed declaration should contain an affirmation of the rights of all peoples to freedom and independence. Thus, it would not only be a warning against further Communist aggression in Asia, but an assurance that the contemplated united action is aimed at the defense of the independence of the Indo-Chinese peoples against Communist imperialism or any other threat.

The joint declaration, to have maximum effectiveness, should approach as closely as possible the guarantees of the Atlantic Charter. It should be the Asian equivalent of that historic document.

I have instructed our delegation to Geneva to support any move towards establishing a NATO-type alliance provided the following conditions are met: First, that the right of Asian peoples to self-determination is respected; and second, that the Philippines be given a plain and unequivocal guarantee of U. S. help in case of attack under our Mutual Defense Pact.

SPEECH OF PRESIDENT RAMON MAGSAYSAY ON THE OCCASION OF THE FIRST NATIONAL JAMBOREE OF THE BOY SCOUTS OF THE PHILIPPINES, IN BALARA, QUEZON CITY, APRIL 23, 1954

MR. VARGAS,
MR. PANGILINAN,
BROTHER SCOUTS:

MANY of you will recall that during the last presidential campaign a few of my critics spread the word that I did not deserve to be taken seriously because I was—in their own word—"only a boy scout."

I was a boy scout because I prized honesty and integrity above all virtues.

I was a boy scout because I pledged myself to the defense of the poor and the weak.

I was a boy scout because I had risked my life—and continue to do so—in defense of our country.

I am not sure if those critics realized clearly what they meant when they called me a boy scout, but I do know that this was one of the highest compliments I had ever received. And this afternoon, you have confirmed this

compliment by inducting me as a "tenderfoot" in your organization. If my critics are still around, I would like to inform them that—as of today—I am officially a boy scout and proud of that distinction.

You are opening your first National Jamboree today.

This is of course a historic moment in the Boy Scout movement in the Philippines. I do not know if this place—Balara—was chosen as the site for your jamboree because of its historical association, but you could hardly have picked a more appropriate one. For right here— where your tents stand and where you will work and play for the duration of your jamboree—was where Andres Bonifacio and his Katipuneros established their first field headquarters during the revolution.

In a sense, the Katipuneros were our first organized group of boy scouts. I am not trying to make a joke. They were patriots, but no one has ever been a patriot without having in abundance those qualities and virtues which constitute the ideal of all boy scouts. I mean that the Katipuneros had courage, loyalty, love of country, and an overwhelming sense of responsibility for the fate of their fellowmen.

Today, no set of virtues is more clearly needed by our people. We are trying to build a future which shall be free from fear and free from want, and in this great collective enterprise, everyone—the young and the old aloke—has his important role to play.

All of you have heard of the Huks. Many of you may even have had a first-hand experience of the havoc caused by this misguided band of men. As long as they persist in their beliefs, they are enemies of our people, for they wish to destroy the liberty and freedom which we have won for ourselves at the great sacrifice of life and comfort.

Many of you have also heard of the war in Korea. Our countrymen fought in that war while the fighting lasted, and a great number of them were killed in battles against the Communists. Those Communists are our enemies, too, for they wish to destroy that atmosphere of peace and concord among men in which alone the happiness of the human race could flourish.

Do not make a mistake. The Huks have been partly destroyed as an organization and the Korean Communists have agreed to a temporary peace, but fighting still goes on in many of our neigboring countries—in China, in Malaya, and in Indo-China.

There is a war in Europe, too, but though this war is conducted across the conference tables and not on the fields of battle, the same basic problem of Democracy *vs.* Communism is the great issue which must be resolved.

In this world-wide struggle, all of us have a stake—particularly you. On the results of this war will depend whether you— and your brothers and sisters—will have a future in which you could think, work, and play as you

choose; or whether you would think, work, and play only as the Communist tyrants would wish you to.

Clearly, you are on the side of Democracy. But how can you help win this war?

You can help win this war if you are steadfast in your purposes, courageous in carrying them out, and at all times loyal to your ideals.

This, I believe, is the meaning of the boy scout movement. But beyond that—and in a larger sense—this is also the meaning of citizenship in a democracy.

I am confident that with your high ideals and the actual practice you have had in cooperative living, Democracy will have worthy guardians in you.

PRESIDENT MAGSAYSAY'S STATEMENT ISSUED ON APRIL 23, CREATING THE FACT-FINDING COMMISSION ON JAPAN'S CAPACITY TO PAY

FOR my own satisfaction, in order to ascertain the capacity of the Japanese Government to meet our reparations demands, I have decided to appoint a special investigating commission to proceed immediately to Japan. I have in mind asking the following to go:

Secretary Jaime Hernandez
Soc Rodrigo
Jaime Velasquez
Francisco Ortigas
One representative each from the Malacañang and the Congressional press associations

This commission does not, in any way, interfere with the negotiations now being conducted here. The matter of reparations, of trade, and of diplomatic relations with Japan are of great importance to our country. The present real menace of war in Southeast Asia also requires that we normalize our relations with anti-Communist nations of the Far East. This includes trade. We must do our utmost to protect our industries in their dealings with other countries. In any decision that I may be called upon to make, I want, as far as possible, to have complete possession of the facts.

PRESIDENT MAGSAYSAY'S SPEECH BEFORE THE PHILIPPINE MEDICAL ASSOCIATION AT THE FEU AUDITORIUM, APRIL 26, 1954

MR. PRESIDENT,
DISTINGUISHED GUESTS,
LADIES AND GENTLEMEN:

A GREAT PHYSICIAN, Sir William Osler, once said that there are only two sorts of doctors—those who practice with their brains and those who practice with their tongues. While I have no doubt as to which category the members of this distinguished group belong,

I am not at all sure that it is not a good thing for doctors—on occasions like the present seminar—to be able to practice with their tongues, too.

Some prescriptions are best prepared by sitting around a table and pooling common knowledge and resources.

The subject of your forthcoming conference is "Rural Health Program." This is, of course, one of our most important national problems.

Last year, I had the privilege of discussing before you my own viewpoints on public health and how the government could improve its services to meet the needs of the greatest number of people. Since assuming office, I have had a first-hand view of the facts and I am, if anything, more than ever convinced that the suggestions I had made in that earlier speech should be implemented as rapidly as our means would permit.

Let me review some of those suggestions:

First, a comprehensive program directed at the eradication of the most common diseases which afflicted the rural population.

Second, the improvement of present health facilities and the extension of services to remote localities.

Third, the establishment in strategic areas of medical centers built around a corps of specialists.

And finally, the training of public health officers and the encouragement—possibly in the form of subsidies on a fixed tenure—of young general practitioners to settle in *barrios* and small towns where their services are most urgently needed.

Such a broad program inevitably raises its own difficulties, but I hope I am not being over-optimistic when I say that our department of health has prepared a plan which will at least meet the minimum and essential health requirements of our population.

The initial necessity is funds. Accordingly, I have recommended to Congress an additional outlay of almost three-and-a-half million pesos for the Department of Health. With this modest amount, I trust that a reasonable start in implementing the new rural health policies could be assured. While a portion of this appropriation will be diverted to the purchase of medical supplies to alleviate current critical shortages, a substantial amount will be expended on the two major aspects of public health service—namely, preventive and curative medicine.

In line with this policy, a massive, full-scale attack has been launched against preventable but widespread diseases like tuberculosis, malaria, gastroenterities, yaws, and intestinal parasites. Mass BCG inoculation service against tuberculosis is being intensified, and the campaign against intestinal parasites among school children is being pursued with vigor. Even more encouraging is the success achieved

so far in the treatment of yaws—a highly debilitating disease—among farmhands, as a result of which the afflicted are enabled to return to work within a reasonable period of time.

Another aspect of public health work which has been showing encouraging progress is the elimination of health hazard in land development areas—such as those for agricultural or settlement purposes. Many of these have now been made attractive from a medical point of view.

Hand in hand with these activities, existing government hospitals are being rapidly equipped with modern and more serviceable equipment. While present facilities are being brought up to the most desirable standards, plans are also being readied for the construction of a more adequate number of hospitals, equipped with up-to-date laboratories and manned by skilled and well-trained staffs. You know that good medicine cannot be practiced without such facilities. I hope that the construction of the North General Hospital in the near future will mean the start of an increasingly successful hospital program.

Earlier in this speech, I reiterated the need for medical centers, situated at strategic locations, as a means whereby town and country patients could avail themselves of the services of specialists with the least possible waste of time and money. In view of unavoidable financial limitations, however, this project may not be immediately realized. But you will be pleased to know that the Department of Health has initiated training courses in radiology techniques and anesthesiology. The courses will eventually be expanded to cover training in other specialty services. I hope, through this means, that we can develop a sufficient potential of specialists from which we may draw as soon as finances permit the operation of the proposed medical centers.

With respect to the plan to divert medical practice to the *barrios*, I can only express my keenest expectation that a feasible way will be found to induce the members of your profession—especially the younger ones—to do so. I am aware that this has its drawbacks for the ambitious young doctor. But that drawback will certainly not be loss of prestige. I say this because I am convinced that in the *barrios* and *sitios* today lie the opportunities for performing one of the great humanitarian tasks of our time.

In this country, doctors—like expensive coffee—are in short supply. One expert has estimated that in a country with ideal medical services, there should be at least one doctor for every one thousand people. When we compare our own figures to this ideal estimate, the results are somewhat alarming. There are no doctors in *barrios* with

a population of less than 2,500. And while every town has a government physician, this official often has to provide medical care to as many as 25,000 to 30,000 people. The consequence is that, among the rural population, a great majority live and die without having had the services of a physician.

This is the tragic situation which we wish to correct. There should be no further delay. We must combine all our efforts to remedy the unjust neglect into which our *barrio* population has fallen.

I cannot over-emphasize the importance of this task. The state of our public health has an ultimate bearing on our efforts to develop and stabilize the national economy, for a country's most important natural resource has always been its manpower potential and the capacity of this potential for productive activity. Cripple it and you cripple the national effort at building a free and prosperous country.

I have commented before on the low productivity of our labor force. Many causes contribute to produce this condition, but we cannot safely discount the influence of health as a factor which can mitigate against low productivity, or—on the other hand—increase the productive capacity of our labor force.

The sick man does not produce enough for his needs and thereby becomes impoverished. The poor man does not get sufficient food and thereby falls prey to disease. This is the vicious circle from which our less fortunate countrymen cannot, without our direct aid, extricate themselves.

We need more doctors. We need more hospitals and laboratories. We need, finally, the fullest development of our public health services.

I have pledged my administration to the attainment of these objectives, but in a sense this is a goal which can be achieved only with the active and unselfish cooperation of all our citizens.

I know, however, that—in keeping with the spirit which guides your noble profession—you have already committed yourselves to this common venture of raising the level of the nation's health and assuring for ourselves and our children the blessings which only health and well-being can give. We can keep on looking ahead.

DECISIONS OF THE SUPREME COURT

[No. L-5943. April 12, 1954]

GO SAN *alias* GO KING CHONG, recurrente y apelante, *contra* CELEDONIO AGRAVA, como Director de la Oficina de Patentes, y JOSE ONG LIAN BIO, recurridos y apelados.

1. PATENTES; SOLICITUD DE CANCELACIÓN DE UN PATENTE LIBRADO; JURISDICCIÓN DEL DIRECTOR DE LA OFICINA DE PATENTES.—El Director de la Oficina de Patentes tiene facultad para considerar la cancelación de patentes de diseños industriales que ha librado cuando se alega que no son nuevos y originales sino meras copias de los que el mocionante viene usando en los artículos que manufactura y que están tomados de catálogos impresos de manufactureros americanos de artículos idénticos.
2. ID.; ID.; LEY APACIBLE.—El artículo 28 de la Ley de la República No. 165 es aplicable a este caso, no sólo porque concierne al procedimiento de cancelación de patentes de diseños industriales indebidamente expedidos, sino también porque refleja la correcta interpretación del artículo 55 de la Ley, en el tiempo en que se presentó la petición de cancelación de patentes de diseños industriales, en relación con los artículos que le preceden de la misma ley.
3. ID.; APELACIONES; PARTES.—No es necesaria la inclusión del Director de la Oficina de Patentes como parte en una apelación contra una decisión u orden de dicha Oficina.

APPEAL from an order of the Director of Patents.

The facts are stated in the opinion of the court.

Allas & Castillo for petitioners.
Solicitor General for respondent Director of Patents.
Quirino & Lasam for respondent Jose Ong Lian Bio.

DIOKNO, *M.:*

La cuestión legal que la apelación plantea es si el Director de la Oficina de Patentes tiene facultad para considerar la cancelación de patentes de diseños industriales que ha librado cuando se alega que no son nuevos y originales, sino meras copias de los que el mocionante viene usando en los artículos que manufactura y que están tomados de catálogos impresos de manufactureros americanos de artículos idénticos.

Se trata de unas franjas ornamentales en los bordes de maletines de viaje por las que el Director de Patentes concedió dos patentes de diseño industrial al recurrido José Ong Lian Bio, sin previa notificación pública o privada. Habiéndose enterado de las patentes a los tres meses de concedidas, el recurrente acudió al Director de Patentes pidiendo la cancelación de las mismas por los motivos arriba brevemente mencionados, pero, a moción del recurrido Ong, el Director sobreseyó la petición por creerse sin autoridad legal para considerarla. Contra esta resolu-

ción el recurrente apeló para ante esta Corte de conformidad con los artículos 61 al 66 de la Ley de la República No. 165.

La expedición de patentes de diseños industriales está regulada por el artículo 55 de la Ley citada, que dice asi, según está enmendado:

"SEC. 55. *Design patents and patents for utility models.*—(*a*) Any new, original, and ornamental design for an article or manufacture and (*b*) any new model of implements or tools or of any industrial product, or of part of the same, which does not possess the quality of invention, but which is of practical utility by reason of its form, configuration, construction or composition, may be protected by the author thereof, the former by a patent for a design and the latter by a patent for a utility model, in the same manner subject to the same provisions and requirements as relate to patents for inventions in so far as they are applicable, except as otherwise herein provided.

"The standard of novelty established by section nine thereof for inventions shall apply to ornamental designs.

"A utility model shall not be considered 'new' if, before the application for a patent, it has been publicly known or publicly used in this country, or has been described in a printed publication or publications circulated within the country, or if it is substantially similar to any other utility model so known, used or described within the country.

"Applications for design patents and patents for utility models shall be subject to interference proceedings as authorized in section ten of this Act, as amended by section one of Republic Act Numbered Six hundred and thirty-seven.

"Patents for designs and for utility models shall be subject to compulsory license as authorized in section thirty-four of this Act. They shall not be subject to the payment of annual fees provided for invention patents in Chapter V hereof."—Republic Act No. 165, as amended by Republic Act No. 637, and further amended by Republic Act No. 864, section 1.

Y el artículo 28 de dicha ley, según está enmendado, dice:

"SEC. 28. *General grounds for cancellation.*—Any person may on payment of the required fee petition the Director within three years from the date of publication of the issue of the patent in the *Official Gazette*, to cancel the patent or any claim thereof, on any of the following grounds:

(*a*) That the invention is not new or patentable in accordance with sections seven, eight, and nine, or that the design or utility model is not new or patentable under section fifty-five thereof;

(*b*) That the specification in the case of an invention does not comply with the requirement of section fourteen, Chapter III hereof; or

(*c*) That the person to whom the patent was issued was not the true and actual inventor, designer or author of the utility model or did not derive his rights from the true and actual inventor, designer or author of the utility model."—Republic Act No. 165, as amended by Republic Act No. 864, section 2.

Este artículo es aplicable a este caso, no sólo porque concierne al procedimiento de cancelación de patentes de diseños industriales indebidamente expedidos, sino también porque refleja la correcta interpretación del artículo 55

de la Ley, en el tiempo en que se presentó la petición de cancelación de patentes de diseños industriales, en relación con los artículos que le preceden de la misma ley.

En virtud de lo expuesto, se revoca la decisión apelada, y se devuelve el asunto para ulteriores trámites de acuerdo con la ley, con las costas al recurrente Ong en esta instancia. Descártese al Director de Patentes como parte recurrida en esta apelación.

Así se ordena.

Parás, Pres., Pablo, Montemayor, Reyes, Jugo, Bautista Angelo, Labrador, y *Concepcion, MM.,* están conformes.

Se revoca la decisión y se devuelve el asunto para ulteriores trámites de acuerdo con la ley.

[No. L-5656. March 24, 1954]

JUAN G. FELICIANO, ET AL., petitioners and appellants, *vs.* MARIANO ALIPIO, ET AL., respondents and appellees

ACTION FOR DECLARATORY RELIEF, CONSIDERED AS ONE FOR PROHIBITION.—Although the petition filed against public officers is for declaratory relief, yet if it prays also for the issuance of a permanent injunction from carrying out the provisions of a Department Circular on grounds of unconstitutionality, the same is equivalent to an action for prohibition and the court should not dismiss the petition but should proceed with the case considering the action as one for prohibition.

APPEAL from an order of the Court of First Instance of Tarlac. De Aquino, *J.*

The facts are stated in the opinion of the court.

K. V. Faylona for petitioners and appellants.

Solicitor General Juan R. Liwag and *Solicitor Felix V. Makasiar* for respondents and appellees.

JUGO, *J.:*

On September 21, 1951, the Director of Public Schools issued Circular No. 20, series of 1951, which reads as follows:

"PUBLIC SCHOOL PUPILS AND STUDENTS MAY BE REQUIRED TO SALUTE THE FLAG"

To Division Superintendents:

"1. Quoted in the inclosure to this Circular for the information and guidance of school officials and teachers, is Opinion No. 370, series of 1951, of the Honorable, the Secretary of Justice, 'regarding the power of the Director of Public Schools to require all pupils and students in public

schools to salute the flag, on pain of being barred from admission to, or expelled from, such schools.'

"This Circular revokes Circular No. 33, series of 1948.

"(Sgd.) BENITO PANGILINAN
"Director of Public Schools"

The petitioners filed before the Court of First Instance of Tarlac a petition for declaratory relief and mandatory injunction, praying that the above circular be declared null and void, and that a preliminary injunction be issued prohibiting the respondents Mariano Alipio and other teachers of the Malacampa Elementary School, and the Director of Public Schools, from carrying out the provisions of said circular, and that, after trial, the preliminary injunction be made permanent.

The Provincial Fiscal of Tarlac filed a motion to dismiss the petition on the ground that under section 2, Rule 66, it was not a case in which a declaratory judgment could be rendered. The court dismissed the case. Hence, the petitioners have appealed to this Court.

It is not necessary to decide whether the petition for declaratory judgment may be granted in this case, because in the petition presented in the court below, in addition to the declaratory judgment, the petitioners prayed for the issuance of a permanent injunction, which is equivalent to an action for prohibition against public officers, and as such we consider it, without passing at this stage of the proceedings on the merits of said action.

In the present case, we cannot consider the question as to the constitutionality of the circular as this will be decided after the regular hearing.

In view of the foregoing, the order of the court dismissing the petition is reversed, and the case returned to the Court of First Instance of Tarlac for further proceedings as in an action for prohibition, without costs. So ordered.

Parás, C. J., Pablo, Bengzon, Padilla, Montemayor, Reyes, Bautista Angelo, Labrador, Concepcion, and *Diokno, JJ.,* concur.

Order reversed.

[No. L-6337. 12 March 1954]

RUPERTA CAMARA, NATALIA CAMARA, ZÓSIMA CAMARA, ABIGNIGO CAMARA, SADRAC CAMARA and REBECA CAMARA, plaintiffs and appellants, *vs.* CELESTINO AGUILAR, ROBERTA AGUILAR, ALICIA AGUILAR and RODELO AGUILAR, the last three being represented by their guardian *ad litem* PURIFICACIÓN VILLAMIEL, defendants and appellees.

1. ACTIONS; DAMAGES AWARDED TO PLAINTIFF BARS DEFENDANTS' CLAIM FOR DAMAGES IN A SUBSEQUENT CASE.—Where damages were awarded to the plaintiff against the defendants and intervenors, the latter cannot, in a subsequent case involving the same subject matter and the same cause of action, claim for damages on the ground that they were in possession of the disputed parcel of land in good faith and are entitled to recover the expenses for clearing, planting and cultivating the land and the fruits which they failed to reap or harvest therein or their value.
2. ID.; COUNTERCLAIM FOR EXPENSES MAY BE SET UP ALTERNATIVELY OR HYPOTHETICALLY IN ONE CAUSE OF ACTION.—Plaintiffs who are intervenors in a former case could have set up in the first case the claim that they were entitled to the parcel of land in question and alternatively that, assuming (hypothetically) that they were not entitled to the parcel of land, at least they were entitled as possessors in good faith to the coconut and other fruit-bearing trees planted by them in the land and their fruits or their value.

APPEAL from an order of the Court of First Instance of Quezon. Victoriano, *J.*

The facts are stated in the opinion of the court.

H. B. Arandia for plaintiffs and appellants.
Alfredo Bonus for defendants and appellees.

PADILLA, *J.:*

This is an action to recover the sum of ₱300 for clearing a parcel of land described in the complaint, and of ₱750 for its cultivation, caring and preservation of the coconut trees and other fruit-bearing trees planted therein. The plaintiffs further pray that the defendants jointly and severally be ordered to pay them the sum of ₱10,100 representing the value of the coconut trees and other fruit-bearing trees planted in the parcel of land or that they be declared entitled to pay to the defendants the reasonable value of the parcel of land.

The plaintiffs allege that they are all of age except Rebeca Camara for whom her sister Ruperta was appointed guardian *ad litem;* that they are the children of the late Severino Camara who since 1915 had been in continuous and uninterrupted possession of a parcel of land situate in the barrio of Balubad, municipality of Atimonan, province of Quezon, formerly Tayabas, containing an area of 5 hectares, more or less, and bounded on the North by the land of Catalino Velasco, on the East by the land of José Camara 1.°, on the South by the lands of Santiago Villamorel and Antonio Saniel, and on the West by the land of Antonio Marquez; that the parcel of land was inherited by Severino Camara from his parents Paulino Camara and Modesta Villamorel; that the late Severino Camara and his wife Vicenta Nera represented to their children, the plaintiffs herein, that said parcel of land belonged exclusively to him; that the plaintiffs and their

husbands helped cultivate and improve the parcel of land during the time Severino Camara was in possession thereof and spent the amount sought to be recovered by them for planting 1,500 coconut and other fruit-bearing trees; that after the death of Severino Camara the plaintiffs became the true, exclusive and absolute owner of the parcel of land and improvements thereon; that Fausto Aguilar brought an action for ejectment (*reivindicación*) against Vicenta Nera involving the parcel of land described above (civil case No. 4835) and on 26 January 1949 the Court of First Instance rendered judgment in said case, the dispositive part of which reads as follows:

IN VIEW OF THE FOREGOING CONSIDERATIONS the Court hereby declares the herein plaintiff to be the absolute owner of the land in question (the above described parcel of land) which is more particularly described in the complaint and Exhibits "A" and "B", and orders the herein defendant and intervenors to immediately restore possession of said land to the plaintiff, to pay said plaintiff the sum of P1,200 which is the value of the harvest of the products on said land obtained by them from 1941 up to the filing of this complaint, and to pay the costs of the proceeding. For lack of merits, the counterclaim and the third party claim are hereby dismissed;

that on 21 October 1950 the Court of Appeals rendered judgment in said case, the dispositive part of which is as follows:

Upon the question of damages we agree with the trial court that the preponderance of the evidence shows that the property in question may yield, at most, P200 per year, but appellee's right to collect damages on that account should start only from the date of the filing of the complaint on December 24, 1947, or from the year 1948.

Upon all the foregoing, we are of the opinion, and so hold that the trial court did not commit the errors assigned in appellant's brief.

Wherefore, modified as above indicated, the appealed judgment is hereby affirmed, with costs; that they, together with their deceased father Severino Camara were possessors in good faith of the parcel of land; that for that reason they are entitled to be reimbursed and paid by the defendants for the trees they planted in the parcel of land; that the defendant Celestino Aguilar is the son of the late Fausto Aguilar, plaintiff in civil case No. 4835 referred to, and the other defendant, Purificación Villamiel, is the widow of the late Isidro Aguilar, another son of the late Fausto Aguilar and the three minor defendants are children of the deceased Isidro Aguilar and his wife Purificación Villamiel who represents them as their guardian *ad litem*.

A motion to dismiss the complaint was filed on the ground that the judgment rendered in civil case No. 4835, which was affirmed by the Court of Appeals with a

modification only as above stated, bars the bringing of the present action, for the plaintiffs herein were intervenors in the former case (No. 4835).

The Court dismissed the complaint on the ground that the action brought in this case had been adjudged in civil case No. 4835 and that the complaint states no cause of action. Hence the appeal.

The appellants contend that the question of damages was not passed upon in the former case. The court below, however, held that this action is barred by the prior judgment because there is identity of parties, the same subject matter and the same cause of action, as provided for in section 45, Rule 39, the herein plaintiffs having intervened and joined the defendants in the former case, the subject matter involved in both cases being the same parcel of land and the cause of action being ejectment (*reivindicación*).

The fact that damages were awarded to the then plaintiff against the then defendants and intervenors negatives the latter's right to claim damages in the present case, for such award is inconsistent with the claim that they were in possession of the parcel of land in good faith and are entitled to recover what they spent for clearing, cultivating and planting the parcel of land and the fruits which they failed to reap or harvest therein or their value.

The contention that a counterclaim for expenses incurred in clearing and cultivating the parcel of land and planting coconut and other fruit-bearing trees therein could not have been set up in the former case because that would have been inconsistent with or would have weakened the claim that they were entitled to the parcel of land, is without merit, because "A party may set forth two or more statements of a claim or defense alternatively or hypothetically, either in one cause of action or defense or in separate causes of action or defenses." [1] Hence, the plaintiffs herein and intervenors in the former case could have set up the claim that they were entitled to the parcel of land and alternatively that, assuming (hypothetically) that they were not entitled to the parcel of land, at least they were entitled as possessors in good faith to the coconut and other fruit-bearing trees planted by them in the parcel of land and their fruits or their value.

The order appealed from is affirmed, with costs against the appellants.

Parás, C. J., Pablo, Bengzon, Montemayor, Reyes, Jugo, Bautista Angelo, Labrador, Concepcion, and *Diokno, JJ.* concur.

Order affirmed.

[1] Section 9, Peale 15.

[No. L-6229. Marzo 11, 1954]

LUCIO LOPEZ, demandante y apelado, *contra* ELIAS DE LA CRUZ y OTROS, demandados y apelantes

[No. L-6374. Marzo 11, 1954]

FELICIANO TADEO, demandante y apelado, *contra* CIPRIANO RODRIGUEZ y OTROS, demandados y apelantes

[No. L-6378. Marzo 11, 1954]

PACITA ESLAYA VDA. DE VALINO, por si y como administradora del Intestado del finado Eleuterio Valino, demandante y apelado, *contra* CONCORDIA MAGAYO y OTROS, demandadas y apelantes.

[No. L-6405. Marzo 11, 1954]

HILARIO ESPIRITU, demandante y apelado, *contra* CIPRIANO RODRIGUEZ y OTROS, demandados y apelantes

1. PROPIEDAD DE INMUEBLE; DERECHO DE DISFRUTARLO Y DISPONER DEL MISMO.—La ley vigente está en favor del dueño de la propiedad privada. El artículo 428 del Código Civil dice que el dueño de una cosa tiene derecho a disfrutar y disponer de ella, sin más limitaciones que las que la ley establece. Dice además que el dueño tiene derecho de acción contra el tenedor y poseedor de la cosa para recobrarla. Y tiene derecho a percibir sus frutos, en nuestro caso los llamados frutos civiles, conforme a los artículos 440 y 441 del Código Civil y otros concordantes.
2. ID.; ID.; VENTA DEL MISMO.—No se puede arguir que el dueño de los lotes parcelarios no debieron haberlos vendido a los demandantes porque los ocupantes del mismo tienen preferente derecho a ellos. Este derecho preferente no está todavía incorporado en nuestras leyes. El contrato privado de venta es todavía un acto libre. Ahora el dueño no está obligado a vender a persona determinada la propiedad en ausencia de obligación previamente contraida al efecto. Y a menos que algún gravamen conste en el título Torrens o en alguna forma conocida por el comprador, toda persona de capacidad jurídica es libre de comprar el terreno. Puede ser que moralmente el mundo debió haber hecho causa común con los inquilinos, boicoteando toda venta de lotes que no fuese para éstos, pero esto no es todavía ley que los tribunales pueden imponer.

APELACION contra una sentencia del Juzgado de Primera Instancia de Nueva Ecija. Mejia, *J.*

Los hechos aparecen relacionados en la decisión del Tribunal.

Diosdado V. Salamanca y *Godofredo V. Salamanca* en representación de los demandados y apelantes.

Teodoro P. Santiago en representación de los demandantes y apelados.

DIOKNO, *M.:*

En estos cuatro asuntos, los terrenos son distintos; también sus areas; los demandantes dueños de los terrenos,

son diferentes, y también lo son los demandados, ocupantes de aquellos. Uno de los asuntos se vió con práctica de pruebas; los tres, con estipulación de hechos. Dos asuntos fueron fallados por un juez de primera instancia, después de oirlos separadamente; los otros dos fueron vistos y fallados conjuntamente por otro juez.

Pero las sentencias fueran todas adversas a los demandados. Estos fueron condenados a desalojar los terrenos que respectivamente ocupan y a pagar el valor razonable del uso y ocupación de los mismos, con costas. También los errores que especifican los demandados en sus apelaciones y los argumentos que aducen en su apoyo son los mismos en todos los asuntos. Por esto, y porque los hechos pertinentes en estas apelaciones son parecidos y porque se evitarían repeticiones y se despacharían más pronto los asuntos, después de un estudio separado y conjunto de los mismos procedemos a fallarlos de una sola vez.

Los demandados no niegan que los demandantes tienen título Torrens a su favor, como dueños absolutos, de los respectivos terrenos en litigio, libre de toda carga y gravamen. Los demandados, con todo, se negaron a reconocerles como dueños, ni a pagarles renta ó participación en los productos, ni a devolverles la propiedad. Han tomado la actitud de poseer y disfrutar de propiedad ajena sin pagar nada.

La razón de los demandantes es que estos terrenos formaron parte de una hacienda de gran extensión del finado Juez Sr., Simplicio del Rosario, de la cual ellos y unos 500 más eran inquilinos desde hace muchos años; que ellos han gestionado de las diferentes oficinas ejecutivas y del Congreso la expropriación de la hacienda para su reventa a los ocupantes como autoriza la Constitución; que la hacienda ha sido vendida a particulares en lotes pequeños, por el finado Sr. Del Rosario o sus herederos o causahabientes; que los demandantes no debieron haber comprado porciones de la hacienda, pues los demandados tienen preferencia para adquirirlos; que por eso ellos creen que los demandantes son compradores de mala fé y no pueden reconocerles como dueños; que ellos no pueden o no quieren pagar al contado, aun a precio de costo, porque de adquirir el Gobierno la hacienda la venta a los ocupantes sería mas llevadera, pero sería a plazos iguales durante diez años; que no han obtenido resultado favorable sus gestiones cerca de los departamentos ejecutivo y legislativo, pero esperan conseguirlo con el tiempo.

Al objeto de convencernos de la legitimidad de su actitud los demandados nos citan hermosos trozos de discursos y escritos de conocidos adalidades de justicia social, como los del discurso del finado Theodore Roosevelt, en Osawatomie, Kansas, en 1910; del Magistrado Holmes en sus conferencias sobre Common Law; del finado Presidente

Quezon en sus mensaje a la Asamblea Nacional de 16 de junio y 6 de julio de 1936; del Senador Laurel, en su obra Moral y Political Organizations; del Secretario Salvador Araneta, cuando era Administrador de Coordinación Económica, en su report de Abril, 1951, sobre las problemas de grandes haciendas; la Constitución, en su artículo 5, cap. II, y artículos 3 y 4, cap. XII, sobre justicia social, y a las varias leyes publicadas encaminadas a la realización de la justicia social, como las leyes del Commonwealth Nos. 20, 260, 378, 420 y de la República No. 267, aprobadas entre 1936 y 1948.

No hay duda que muchos corazones generosas han hablado y se han movido para ayudar a la humanidad necesitada en su lucha contra los apremios y apuros de la miseria, del hambre, de la enfermedad y de la vejez. El difunto President Franklin Delano Roosevelt es de los mas frecuentemente recordados. El que esto escribe todavia recuerda que en sus años de representante en la Asamblea Nacional luchó en vano porque se concediera a todo labrador el derecho a ser dueño de la tierra que labra, si no tiene otra propiedad y el propietario le queda otra. También recuerda que cuando era Government Corporate Counsel trabajó con el ex-Gobernador General Harrison, por encargo del finado Presidente Quezon en ver de adoptar en el pais una ley inglesa que expropiabala grandes latifundos para subdivirlos y revenderlos a los ocupantes a precio de costo, a 35 años de plazo y solo al 2 por ciento de interés. También recuerda al finado Rafael Palma, que buscaba manera de hacer obligatorio a cada filipino la responsabilidad del cultivo de siquiera tres hectareas de terreno agricola propio.

La dificultad de los demandados y de los que les aconsejan está en que olvidan que hay buena diferencia entre el dicho al hecho, que no ha habido expropiación todavía, que en su raciocinio y actitud parten de un supuesto no logrado aun, y pierden de vista que los tribunales no deben, ni pueden válidamente usurpar funciones legislativas o ejecutivas, que es lo que monta el acceder a lo que ellos pretenden en estos asuntos.

Si, como no dudamos, los apelantes son buenos ciudadanos —y tiene que serlo si desean y esperan que el Gobierno y el pais les ayuden en sus esfuerzos por obtener justicia social—su primer deber es insistir que los tribunales administren justicia conforme a la ley, sin excepicón de personas, y sin favor ni temor. Aunque nos consta que es firme y definitiva la actitud de nuestros tribunales en este respecto, el apoyo de la opinión inteligente del pais es algo que, como un buen sol, fortifica el ánimo y hace mas llevadera la tarea diaria.

En nuestro caso, la ley vigente está en favor del dueño de la propiedad privada. El art. 428 del Código Civil dice

que el dueño de una cosa tiene derecho a disfrutar y disponer de ella, sin más limitaciones que las que la ley establece. Dice ademas que el dueño tiene derecho de acción contra el tenedor y poseedor de la cosa para recobrarla. Y tiene derecho a percibir sus frutos, en nuestro caso los llamados frutos civiles, conforme a los arts. 440 y 441 del Código Civil y otros concordantes. Si los demandados fuesen los dueños o invocaran estas disposiciones legales los tribunales tendrían que otorgales el derecho que confieren, o los demandados serían con razón los primeros en protestar a grito pelado contra la injusticia.

Dicen los demandados que los demandantes no debieron haber comprado los lotes parcelarios, porque ellos, los demandados tienen preferente derecho a ello. Este derecho preferente no está todavía incorporado en nuestras leyes. El contrato privado de venta es todavia un acto libre. Ahora el dueño no está obligado a vender a persona determinada la propiedad en ausencia de obligación previamente contraida al efecto. Y a menos que algún gravamen conste en el título Torrens o en alguna forma conocida por el comprador, toda persona de capacidad jurídica es libre de comprar el terreno. Puede ser que moralmente el mundo debió haber hecho causa común con los inquilinos, boicoteando toda venta de lotes que no fuese para estos, pero esto no es todavía ley que los tribunales pueden imponer.

No se custiona el importe adjudicado como valor del uso y ocupación de los terrenos. Solo queda por recordar en este punto que la ley impone el pago de intereses legales. Art. 6, Regla 53, Reglamento de los Tribunales.

Se confirman las sentencias apeladas, con el interés legal de las sumas adjudicadas desde el vencimiento de los respectivos plazos de pago de las mismas, y con las costas de esta instancia.

Así se ordena.

Parás, Pres., Pablo, Bengzon, Padilla, Montemayor, Reyes, Jugo, Bautista Angelo, Labrador y *Concepcion, MM.*, están conformes.

Se confirmaran las sentencias apeladas.

[No. L-5156. Marzo 11, 1954]

CARMEN FESTEJO, demandante y apelante, *contra* ISAIAS FERNANDO, Director de Obras Públicas, demandado y apelado.

PRÁCTICA FORENSE; ACCIÓN CONTRA UN FUNCIONARIO PÚBLICO POR DAÑOS Y PERJUICIOS.—La acción contra el demandado como Director de Obras Públicas encargado y responsable de la construcción de los sistemas de irrigación en Filipinas, por

alegadas extralimitaciones en el desempeño de sus funciones oficiales, es una dirigida *personalmente* contra él. "Ordinarily the officer or employee committing the tort is personally liable therefor, and may be sued as any other citizen and held answerable for whatever injury or damage results from his tortious act." (49 Am. Jur. 28.) En ese caso, no procede el sobreseimiento de la demanda por el fundamento de que la acción es una dirigida contra la República de Filipinas.

APELACIÓN contra un auto del Juzgado de Primera Instancia de Ilocos Sur. Campos, *J.*

Los hechos aparecen relacionados en la decision del Tribunal.

Eloy B. Bello en representación del demandante y apelante.

El Procurador General Pompeyo Diaz y *el Procurador Antonio A. Torres* en representación del demandado y apelado.

DIOKNO, *M.:*

Carmen Festejo, dueña de unos terrenos azucareros, de un total de unas 9 hectareas y media de superficie, demandó a "Isaias Fernando, Director, Bureau of Public Works", "que como tal Director de Obras Públicas tiene a su cargo los sistemas y proyectos de *irrigación* y es el funcionario responsable de la construcción de los sistemas de *irrigación* en el pais," alegando que—

"The defendant, as Director of the Bureau of Public Works, without authority obtained first from the Court of First Instance of Ilocos Sur, without obtaining first a right of way, and without the consent and knowledge of the plaintiff, and against her express objection, unlawfully took possession of portions of the three parcels of land described above, and caused an irrigation canal to be constructed on the portion of the three parcels of land on or about the month of February 1951 the aggregate area being 24,179 square meters to the damage and prejudice of the plaintiff."—*R. on A., p. 3.*

causando a ella variados daños y perjuicios. Pidió, en su consecuencia, sentencia condenando el demandado:

"* * * to return or cause to be returned the possession of the portions of land unlawfully occupied and appropriated in the aggregate area of 24,179 square meters and to return the land to its former condition under the expenses of the defendant." * * *

"In the remote event that the portions of land unlawfully occupied and appropriated can not be returned to the plaintiff, then to order the defendant to pay to the plaintiff the sum of P19,343.20 as value of the portions totalling an area of 24,179 square meters;"—*R. on A., p. 5.*

y ademas a pagar P9,756.19 de daños y P5,000 de honorarios de abogado, con las cotas R. on A., pp. 5–6.

El demandado, por medio del Procurado General, presentó moción de sobreseimiento de la demanda por el fundamento de que el Juzgado no tiene jurisdicción para

dictar sentencia válida contra él, toda vez que judicialmente la reclamación es contra la República de Filipinas, y esta no ha presentado su consentimiento a la demanda. El Juzgado inferior estimó la moción y sobreseyó la demanda sin perjuicio y sin costas.

En apelación, la demandante sostiene que fué un error considerar la demanda como una contra la República y sobreseer en su virtud la demanda.

La acción contra "Isaias Fernando, Director de Obras Públicas", "encargado y responsable de la construcción de los sistemas de irrigación en Filipinas" es una dirigida *personalmente* contra él, por actos que asumió ejecutar en su concepto oficial. La ley no le exime de responsabilidad por las extralimitaciones que cometa o haga cometé en el desempeño de sus funciones oficiales.

Un caso semejante es el de Nelson *vs.* Bobcock (1933) 18 Minn. 584, 24 NW 49, 90 ALR 1472. Alli el Comisionado de Carreteras, al mejorear un trozo de la carretera ocupó o se apropió de terrenos continguos al derecho de paso. El Tribunal Supremo del Estado declaró que es personalmente responsable al dueño de los daños causados. Declaró ademas que la ratificación de lo que hicieron sus subordinados era equivalente a una orden a los mismos. He aqui lo dijo el Tribunal:

"We think the evidence and conceded facts permitted the jury in finding that in the trespass on plaintiff's land defendant committed acts outside the scope of his authority. When he went outside the boundaries of the right of way upon plaintiff's land and damaged it or destroyed its former condition and usefulness, he must be held to have designedly departed from the duties imposed on him by law. There can be no claim that he thus invaded plaintiff's land southeasterly of the right of way innocently. Surveys clearly marked the limits of the land appropriated for the right of way of this trunk highway before construction began.* * *.

"'Ratification may be equivalent to command, and cooperation may be inferred from acquiescence where there is power to restrain.' It is unnecessary to consider other cases cited, * * *, for as before suggested, the jury could find or infer that, in so far as there was actual trespass by appropriation of plaintiff's land as a dumping place for the rock to be removed from the additional appropriated right of way, defendant planned, approved, and ratified what was done by his subordinates."—Nelson *vs.* Bobcock, 90 A. L. R., 1472, 1476, 1477.

La doctrina sobre la responsabilidad civil de los funcionarios en casos parecidos se resume como sigue:

"Ordinarily the officer or employee committing the tort is personally liable therefor, and may be sued as any other citizen and held answerable for whatever injury or damage results from his tortious act."—*49 Am. Jur. 289.*

* * * If an officer, even while acting under color of his office, exceeds the power conferred on him by law, he cannot shelter himself under the plea that he is a public agent."—*43 Am. Jur. 86.*

"It is a general rule that an officer-executive, administrative quasi-judicial, ministerial, or otherwise who acts outside the scope of his jurisdiction and without authorization of law may thereby

render himself amenable to personal liability in a civil suit. If he exceeds the power conferred on him by law, he cannot shelter himself by the plea that he is a public agent acting under color of his office, and not personally. In the eye of the law, his acts then are wholly without authority."—*43 Am. Jur. 89-90.*

El artículo 32 del Código Civil dice, a su vez:

"ART. 32. Any public officer or employee, or any private individual, who directly or indirectly obstructs, defeats, violates or in any manner impedes or impairs any of the following rights and liberties of another person shall be liable to the latter for damages:

* * * * * * *

"(6) The right against deprivation of property without due process of law;

* * * * * * *

"In any of the cases referred to in this article, whether or not the defendant's acts or omission constitutes a criminal offense, the aggrieved party has a right to commence an entirely separate and distinct civil action for damages, and for other relief. Such civil action shall proceed independently of any criminal prosecution (if the latter be instituted), and may be proved by a preponderance of evidence.

"The indemnity shall include moral damages. Exemplary damages may also be adjudicated."

Veanuse también Lung *vs.* Aldanase, 45 Phil., 784; Syquia *vs.* Almeda, No. L-1648, Agosto 17, 1947; Marquez *vs.* Nelson, No. L-2412, Septiembre 1950.

Se revoca la orden apelada y se ordena la continuación de la tramitación de la demanda conforme proveen los reglamentos. Sin especial pronunciamiento en cuanto a las costas.

Asi se ordena.

Padilla, Reyes, Jugo, Bautista Angelo y *Labrador, MM.*, están conformes.

Parás, Pres., y *Montemayor, M.*, reservan sus votos.

CONCEPCION, *J., with whom concur Bengzon, J., dissenting:*

To my mind, the allegations of the complaint lead to no other conclusion than that appellee Isaias Fernando is a party in this case, not in his personal capacity, but as an officer of the Government. According to said pleading the defendant is "Isaias Fernando, Director, Bureau of Public Works." Moreover, in paragraphs 4 and 5 of the complaint, it is alleged:

"4. That the defendant *as Director of the Bureau of Public Works* is in charge of irrigation projects and systems, and the official responsible for the construction of irrigation system in the Philippines;

5. That the defendant, *as Director of the Bureau of Public Works*, without authority obtained first from the Court of First Instance of Ilocos Sur, without obtaining first a right of way, and without the consent and knowledge of the plaintiff, and against her express objection, unlawfully took possession of portions of the three parcels of land described above, and caused an irrigation canal to be constructed on the portion of the three parcels of land on or

about the month of February 1951 the aggregate area being 24,179 square meters to the damage and prejudice of the plaintiff." (Underscoring supplied.)

The emphasis thus placed upon the allegation that the acts complained off were performed by said defendant "as Director of the Bureau of Public Works," clearly shows that the designation of his office was included in the title of the case to indicate that he was being sued in his official capacity. This conclusion is bolstered up by the fact that, among other things, plaintiff prays, in the complaint, for a judgment

"Ordering the defendant to return or caused to be returned the possession of the portions of land unlawfully occupied and appropriated in the aggregate area of 24,179 square meters and to return the land to its former condition under the expense of the defendant." (Paragraph a, of the complaint).

We take judicial notice of the fact that the irrigation projects and system referred to in the complaint—of which the defendant, Isaias Fernando, according to the same pleading, is "in charge" and for which he is "responsible" as Director of the Bureau of Public Works—are established and operated with public funds, which pursuant to the Constitution, must be appropriated by law. Irrespective of the manner in which the construction may have been undertaken by the Bureau of Public Works, the system or canal is, therefore, a property of the Government. Consequently, in praying that possession of the portions of land occupied by the irrigation canal involved in the present case be returned to plaintiff herein, and that said land be restored to its former condition, plaintiff seeks to divest the Government of its possession of said irrigation canal, and, what is worse, to cause said property of the Government to be removed or destroyed. As held in Sy Quia *vs.* Almeda (47 Off. Gaz., 670–671), the Government is, accordingly, "the real party in interest as defendant" in the case at bar. In other words, the same partakes of the nature of a suit against the state and may not be maintained without its consent.

Hence I am constrained to dissent.

Se revoca la orden apelada y se ordena la continuación de la tramitación de la demanda conforme proveen los reglamentos.

[No. L-7028. Marzo 6, 1954]

JOAQUIN VILLALUZ, protestante y apelante, *contra* TITO CAÑIDO, protestado y apelado

PROTESTA ELECTORAL; SOBRESEIMIENTO POR INCOMPARECENCIA EN EL DÍA DE LA VISTA.—Bajo las circunstancias del caso, la ausencia en persona del protestante al llamarse a vista la protesta

fue satisfactoriamente explicada. El argumento de que debió haber ido a Surigao una semana antes no es razonable. La presencia del otro abogado del protestante a la hora fijada debió haber sido motivo para dejar en suspenso la orden de sobreseimiento. La denegación de la reposición de la protesta en vista de los hechos expuestos, es un erróneo ejercicio de la discreción judicial.

APELACION contra un auto del Juzgado de Primera Instancia de Surigao. Arca, *J.*

Los hechos aparecen relacionados en la decisión del Tribunal.

Sisenando Villaluz, Cipriano C. Alvizo and *Olimpio R. Epis* en representación del protestante apelante.

Teodulo C. Tandayag and *Ricardo C. Navarro* en representación del protestado y apelado.

DIOKNO, *M.:*

Esta es una protesta electoral sobre la elección de Alcalde de Hinatuan, Surigao, celebrada el 13 de noviembre de 1951. La diferencia entre los dos candidatos contendientes es de seis votos, y la protesta se ha limitado a cuestionar las elecciones en los precintos Nos. 10 y 13 del citado municipio.

Contestada la protesta, el Juzgado nombro a los comisionados revisores de las balotas, con unas instrucciones bastante detalladas (enero 19, 1952, folios 13–14 de los antes originales), y en tiempo oportuno presentaron estos su informe (enero 30, 1952, folios 16–19).

Por orden de 25 de febrero de 1952, la vista de la protesta, a petición del protestante, fué señalada para septiembre de dicho año en Hinatuan, Surigao, para evitar gastos de viaje de los testigos a la cabecera (folio 22), pero a petición del mismo protestante se adelantó el señalamiento de la vista para el 14 de julio de 1952, a las 8:30 de la mañana, en Surigao (folio 25). En dicha mañana se llamó a vista la protesta, y no habiendo comparecido al protestante y su abogado el Juzgado sobreseyó la protesta, sin especial pronunciamiente en cuanto a las costas (folio 28).

Resulta que el protestante había tomado el M/V Linteanteng, que hace los viajes semanales regulares de Hinatuan a Surigao, el 12 de julio, 1952; el vapor debía llegar ordinariamente en Placer a las 6 de mañana del 14, y así el protestante podía llegar, por bus, a Surigao a tiempo para estar a las 8 de la mañana en el Juzgado. Pero el vapor se retrasó, porque en un puerto de escala, Tandang, donde debía salir a las 10 de la noche solo salió entre 12 y 1 de la madrugada, por lo que llegó el vapor en Placer a las 8 de la mañana y el protestante solo pudo llegar al Juzgado a Surigao a las 10 de la mañana (folio 63).

Resulta también que uno de los abogados del protestante era Olimpio R. Epis, miembro de la junta provincial y con oficina en Surigao, Surigao (folios 23, 25, 31, 32, 38, 43, 49, 60–62). Dicho abogado fué al Juzgado para asistir en la vista de la protesta el 14 de julio, llegando a las 8:30 de la mañana, pero entonces acabada el Juez de dictar la orden de sobreseimiento. He aqui como dicho abogado explica, bajo juramento, lo que inmediatamente después hizo:

"* * * The undersigned called on the said Judge in chambers and requested him to reconsider his order of dismissal, but he asked, 'Where is your client, the contestant?' The undersigned answered that he had not yet come. The Hon. Judge then asked: 'Did he advise you that he is coming or not?' The undersigned answered: No, Your Honor, but there is a boat, the MV *'Linteanteng'* which is due to arrive today from Hinatuan where the protestant resides. He may be in that boat. He ought to have been here at eight o'clock in the morning as he usually does, but probably he is delayed.' The Hon. Judge who was rather in an ugly mood said: 'You cannot be more interested than your client.' And then he dismissed me and went up to the rostrum to hear another case. At that moment I was stumped and could think of no other action to take." (p. 60)

Al llegar el protestante a Surigao se enteró del policía Luis Rugay, que guardaba la orden en el Juzgado, que su protesta había sido sobreseida (folio 63), por lo que fué a buscar al abogado Epis. Este relató bajo juramento lo que ocurrió después como sigue:

"That at about 10:20 a. m., the contestant Mr. Joaquin Villaluz came and saw me at the office of the Provincial Board which was then in session, and of which the undersigned is a member. Without loss of time, the undersigned requested permission of the presiding officer to leave the session and attend to the contestant, which was granted. With the protestant Mr. Joaquin Villaluz, the undersigned went directly to the office of the Clerk of Court and requested Mr. Jose Rendon, the Acting Clerk of Court, to certify that Mr. Joaquin Villaluz came at 10:00 a. m. We wanted to approach the presiding Judge Hon. Enrique Maglanoc and apprise him of the arrival and appearance of the contestant, but at that time he was trying a case and we did not want to disturb him. Besides, the undersigned also noticed that he was in a rather bad mood and unreceptive to explanations.

"That thereupon the contestant Mr. Joaquin Villaluz said that he would see Attorney Cipriano C. Alvizo to request him to prepare a written motion for reconsideration of the order of dismissal, and the undersigned did not interpose any objection to this move and decision made by the contestant. Atty. Alvizo in fact filed an amended petition for reconsideration which is still unresolved by the Court." (f. 61)

En autos obra la moción preparada por el Abogado Cipriano C. Alvizo (folios 37–38).

Se ha puesto la reposición de la protesta en forma de mociones de reconsideración y nueva vista exponiendo los hechos arriba mencionados, que fueron no controvertidos, pero el Juzgado las denegó todas. (folios 49, 74–75)

En nuestra opinión la ausencia en persona del protestante al llamarse a vista la protesta fué satisfactoriamente explicada. El argumento de que debió haber ido a Surigao una semana antes no es razonable. La presencia del abogado Epis a la hora fijada debió haber sido motivo para dejar en suspenso la orden de sobreseímiento. La denegación de la reposición de la protesta en vista de los hechos expuestos, es un erróneo ejercicio de la discreción judicial.

En virtud de lo expuesto, se dijan sin efectos las ordenes de fechas 29 de julio y 16 de septiembre de 1952 y se ordena la devolución al Juzgado inferior de los autos originales para su ulterior tramitación conforme el Código Electoral Revisado. Sin especial pronunciamiento de costas.

Asi se ordena.

Parás, Pres., Pablo, Bengzon, Padilla, Montemayor, Reyes, Jugo, Bautista Angelo, Labrador y *Concepcion, MM.*, están conformes.

Se dija sin efecto la orden de sobreseímiento.

[No. L-6874. Marzo 6, 1954]

POTENCIANO SAN JUAN Y OTROS, recurrentes, *contra* EL HON. BIENVENIDO A. TAN y OTRO, recurridos

SENTENCIAS FIRMES; SU REVOCACIÓN; CORRECIÓN DE ERRORES CLERICALES; EXPROPIACIÓN.—Habiendo quedado final y ejecutoria la decisión en un asunto expropiación, por la falta de moción de nueva vista, de reconsideración o apelación, el Juzgado ha perdido toda jurisdicción para modificarla, salvo para correcciones clericales. La notificación del informe del Comité de Tasadores y el plazo de 10 días para impugnarlo son derechos renunciables, y se cntienden renunciados si no se suscitan cuando se pedió vista del informe, ni cuando este se vió, ni hasta que se dictó la decisión, habiendo tenido durante ese tiempo amplia oportunidad para hacerlo. La omisión de tales requisitos no ha afectado derecho alguno esencial en el procedimiento y no afecta a la jurisdicción del Juzgado, ni hace de la decisión nula *ab initio.*

JUICIO ORIGINAL en el Tribunal Supremo. Certiorari con interdicto prohibitorio preliminar.

Los hechos aparecen relacionados en la decisión del Tribunal.

Maximino M. San Diego en representación de los recurrentes.

Amado B. de Leon en representatción de los recurridos.

DIOKNO, *M.:*

La Provincia de Rizal ha incoado en el Juzgado de Primera Instancia de la provincia unas actuaciones de expropiación forzosa de 30,420 metros cuadrados de terreno urbano de la propiedad de los recurrentes, para que la pro-

vincia, según la demanda, pueda levantar edificios públicos y mejorar y ampliar el sitio del presente Morong High School, en Morong, Rizal. En el curso debido de los actuaciones, se puso a la provincia en posesión del terreno y se nombró un Comité de Tasadores para avaluarlo. Este celebró varias audiencias y en tiempo oportuno rindió su informe. Notificados de este informe, los recurrentes pidieron vista del mismo, que el Juzgado señaló para el 20 de febrero de 1953, a las 8 de la mañana. De la petición y orden fué notificada la Fiscalía Provincial de Rizal (Exhíbits A y C).

En el día señalado para la vista, compareció por la provincia el fiscal auxiliar Amado de Leon, quien dijo: "There is a supposed report of the Committee on Appraisal." Y el Juzagdo dijo, acto seguido: "Decision reserved." (Exhibit B–1).

El 25 de Febrero de 1953, previo servicio de copia a la Oficina del Fiscal Provincial, los recurrentes sometieron su Memorandum sobre el report del Comite de Tasadores (Exhibit B–2).

El 30 de marzo, 1953, el Hon. Juez recurrido dictó la decisión Exhibit D. cuya parte dispositiva dice así:

"In view of all the foregoing, the Court hereby sustains the plaintiff's right to expropriate the parcels of land owned by all the defendants in this case as described in the complaint, dated August 4, 1950. The price of the parcel of lands subject of this condemnation proceedings is fixed at ₱1.50 per square meter for the riceland and bacood, and ₱3 per square meter for the residential land.

The plaintiff is offered to pay to all defendants the total amount of ₱4,510 as damages for two years, the same to be distributed in proportion to the respective harvest of each defendant. The plaintiff is also ordered to pay to the heirs of Eladio Mateo the amount of ₱300 as damages for the destruction of the different fruit-bearing and bamboo trees on the latter's land, and another ₱200 to the heirs of Leon San Juan as damages for the destruction of the latter's house on their land.

Upon payment by the plaintiff to the defendants of the compensation as above fixed and payment of the costs, the plaintiff shall have the right to retain the parcels of land subject of this condemnation proceedings, free from all liens whatsoever, for public use."

Esta decisión fué notificada debidamente a las partes y quedó final y ejecutoria (Exhibit B).

El 12 de mayo, 1953, el Juzgado, "it appearing that the decision rendered in this case has already become final and executory," ordenó que se expida el mandamiento de ejecución correspondiente (Exhibit E). Y el 27 del mismo mes, "there being no appeal from the said decision," ordenó a la provincia que pague a los recurrentes conforme a dicha decisión, disponiendo para ello en lo que fuese necesario y bastante del depósito de ₱20,000 hecho en le Tesorería Provincial al iniciarse la expropriación para la obtención de la posesión del terreno (Anexo F).

Pero en 19 de junio de 1953, el Hon. Juez recurrido revocó su decisión Exh. D de fecha 30 de marzo de 1953, por una orden que dice así:

"Acting upon the motion dated June 3, 1953, filed by the Assistant Provincial Fiscal, in behalf of the plaintiff in this case, and it appearing from the records that the decision of March 30, 1953, was rendered through error, the said motion is hereby revoked.

The clerk of court is hereby ordered to furnish the parties in this case with copies of the reports of commissioners and the parties are hereby given ten days from receipt of such copies of the reports, within which to file their objections thereto."

No consta en los autos de este recurso la moción del Fiscal Provincial auxiliar de Rizal de 3 de junio de 1953 que alude la orden, pero se colige de la orden transcrita, en parte corroborada por el anexo B, que el error en la promulgación de la decisión que se revocaba consiste en que no se ha servido copias del report del Comité de Tasadores a las partes—consta que se sirvió a los recurrentes—y que no se ha dado a las partes diez días para la presentación de las objeciones que tuviesen, como requiere en efecto los articulos 8 y 9 de la Regla 69 de los Reglamentos.

El Honorable Juez recurrido no ha dado importancia al hecho de que la representación de la provincia no ignoraba la existencia del informe del Comité y sin embargo no pidió que se cumpliese el trámite de que se le sirva copia del mismo, ni tiempo para impugnarlo cuando la representación de los recurrentes (allá demandados) pidieron vista del informe (Feb. 11, 1953, Exh. A), ni cuando se le notificó de la orden de señalamiento de vista (Feb. 14, 1953, Exh. C), ni en el mismo día de la vista del informe (Feb. 20, 1953, Exh. B–1), ni cuando recibió copia del memorandum de los recurrentes sobre dicho informe (Feb. 25, 1953, Exh. B–2), ni cuando fué notificado la decisión (marzo 30, 1953, Exh. D), ni cuando se ordenó la ejecución de la decisión por haber quedado final y ejecutoria (mayo 12, 1953, Exh. E). La omisión de la representación de la demandante de reclamar copia del informe del Comité de Tasadores y de pedir oportunidad para impugnarlo antes de la decisión (30 de marzo, 1953) implica renuncia a tales trámites. Y su silencio o inacción después de notificada la decisión, dejando que la misma quede final y ejecutoria implica aquiescencia, si no conformidad a dicha decisión.

La notificación del informe del Comité de Tasadores y el plazo de diez días para impugnarlo son derechos renunciables, y se entienden renunciados si no se suscitan cuando se pedió vista del informe, ni cuando este se vió, ni hasta que se dictó la decisión 38 días después, habiendo tenido durante ese tiempo amplia oportunidad para hacerla. La omisión de tales requisitos no ha afectado derecho alguno esen-

cial en el precedimiento y no afecta a la jurisdicción del Juzgado, ni hace de la decisión nula *ab initio.*

Habiendo quedado final y ejecutoria la decisión, por la falta de moción de nueva vista, de reconsideración o apelación, el Juzgado ha perdido toda jurisdicción para modificarla, salvo para correcciones clericales.

En su virtud, se declara nula y de ningún valor y efecto la orden del Hon. Juez recurrido de fecha 19 de junio de 1953 (Exhibit G). Sin especial pronunciamiento en cuanto a las costas.

Así se ordena.

Parás, Pres., Pablo, Bengzon, Padilla, Montemayor, Reyes, Jugo, Bautista Angelo, Labrador y *Concepcion, MM.*, están conformes.

Se *concede el recurso.*

[No. L-6901. March 5, 1954]

PIO S. PALAMINE, SULPICIO UDARBE, ALFONSO SAGADO, HIPOLITO EXCELISE, IRENEO SULITA, MELECIO DAMASING, and LUDHERO BALOC, petitioners, *vs.* RODRIGO ZAGADO, METRANO PALAMINE, BRIGIDO CAÑALES, DOMINADOR ACOBO, GUALBERTO SAFORTEZA, respondents.

ADMINISTRATIVE LAW; REMOVAL OR DISMISSAL OF CHIEF AND MEMBERS OF POLICE FORCE OF A MUNICIPALITY.—The chief and members of the police force of a municipality cannot be dismissed simply in accordance "with the new policy of the present administration," without charging and proving any of the legal causes specifically provided in Republic Act 557.

ORIGINAL ACTION in the Supreme Court. Mandamus and quo warranto with preliminary injunction.

The facts are stated in the opinion of the court.

Tañada, Pelaez & Teehankee for petitioners.
Provincial Fiscal Pedro D. Melendez for respondents.

BENGZON, *J.:*

The petitioners were on June 12, 1953, the chief and members of the police force of Salay, Misamis Oriental. On that date they were removed from the service by the respondent Rodrigo Zagado as the acting mayor of the same municipality. The other respondents are the persons subsequently appointed to the positions thus vacated.

This litigation was instituted without unnecessary delay, to test the validity of such removals and appointments, the petitioners contending they were illegal, because contrary to the provisions of section 1, Republic Act No. 557, which reads in part as follows:

"Members of the provincial guards, city police and municipal police shall not be removed and, except in cases of resignation, shall not be discharged except for misconduct or incompetency, dishonesty, disloyalty to the Philippine Government, serious irregularities in the performance of their duties, and violation of law or duty, * * *"

There is no question that on June 12, 1953 each of the petitioners received from the respondent Rodrigo Zagado a letter of dismissal couched in these terms:

"I have the honor to inform you that according to the new policy of the present administration, your services as Municipal Police, this municipality will terminate at the opening of the office hour in the morning of June 13, 1953, and in view hereof, you are hereby respectfully advised to tender your resignation effective immediately upon receipt of this letter."

There is also no question that on June 14, 1953 said respondent appointed the other respondents to the vacant positions, which the latter assumed in due course and presently occupy.

The respondents' answer, without denying the letters of dismissal, alleges that Acting Mayor Zagado had dismissed the petitioners "with legal cause and justification" and that "charges have been preferred against the said petitioners."

What that legal cause is, the pleading does not disclose. What the preferred charges were, we do not know. Whether they are charges of the kind that justify investigation and dismissal, respondents do not say. And when the controversy came up for hearing, none appeared for respondents to enlighten the court on charges or the outcome thereof.

Hence, as the record now stands, the petitioners appear to have been dismissed simply in accordance "with the new policy of the present administration" as avowed in the letters of dismissal. Probably that is the "legal cause" alleged by respondents. But they forget and disregard Republic Act 557, inasmuch as no misconduct or incompetency, dishonesty, disloyalty to the Government, serious irregularity in the performance of duty or violation of law has been charged and proven against the petitioners. The Legislature in said statute has wisely expressed its desire that membership in the police force shall not be forfeited through changes of administration, or fluctuations of "policy", or causes other than those it has specifically mentioned.

Reinstatement is clearly in order. [1]

[1] Mission et al., *vs.* Del Rosario, G. R. No. L-6754, February 26, 1954; Manuel *vs.* de la Fuente, 48 Off. Gaz., 4829.

Wherefore, judgment is hereby rendered in favor of the petitioners, commanding the respondent Acting Mayor Rodrigo Zagado to reinstate them to their respective positions, and ordering the other respondents to vacate their places. Costs against respondents. So ordered.

Parás, C. J., Pablo, Padilla, Montemayor, Reyes, Jugo, Bautista Angelo, Labrador, Concepcion, and *Diokno, JJ.,* concur.

Judgment rendered in favor of petitioners, commanding respondent Acting Mayor Rodrigo Zagado to reinstate petitioners and ordering respondents to vacate their places.

[No. L-7312. Febrero 26, 1954]

TITO V. TIZON ET AL., recurrentes, *contra* CECILIO DOROJA Y OTROS, recurridos

PROTESTA ELECTORAL; JUICIO SUMARO PARA LA CORRECCIÓN DEL ACTA ELECTORAL.—Considerando que el Juzgado recurrido ha obrado en virtud de la jurisdicción que le confiere el artículo 154 del Código Electoral Revisado; que su resolución rechazando como prueba de uno de los candidatos en el juicio sumario el testimonio de electores acerca de sus votos para el cargo de representante está arreglado a derecho, y que su citada sentencia es final e inapelable (Aguilar *vs.* Navarro, 55 Phil., 898; Clarin *vs.* Juez Alo, L-7302), se deniega el recurso de certiorari, prohibición y mandamus pedido por uno de los candidatos.

JUICIO ORIGINAL en el Tribunal Supremo. Certiorari, prohibición y mandamus con interdicto prohibitorio preliminar.

Los hechos aparecen relacionados en la decisión del Tribunal.

Estanislao A. Fernandez, Jacinto R. Bohol, Raul C. Muñoz, Jose C. Santos y Artemio Apostol en representación de los recurrentes.

Claro M. Recto y *Leon Ma. Guerrero* en representación de los recurridos.

DIOKNO, *M.:*

Resultando que el Juzgado de Primera Instancia recurrido, en 23 de diciembre de 1953, ha dictado sentencia ordenando a las juntas de inspectores de elección de los precintos Nos. 5B, 8, 12, 15 y 16 del municipio de Gandara, y No. 1 del distrito municipal de Matuginao, todos de la provincia de Samar, que corrijan inmediatamente las respectivas actas de elección en la forma que especifica, y denegó la petición relativa a la corrección del acta del precinto 14 de Gandara; y

Considerando que el Juzgado recurrido he obrado en virtud de la jurisdicción que le confiere el artículo 154 del Código Electoral Revisado; que su resolución rechazando como prueba de uno de los candidatos en el juicio sumario el testimonio de electores acerca de sus votos para el cargo de representante está arreglada a derecho, y que su citada sentencia es final e inapelable (Aguilar y Casapao *vs.* Navarro, 55 Phil., 898; Clarin *vs.* Juez Alo, L–7302)—

Se deniega el recurso, y se disuelve el interdicto prohibitorio expedido el 11 de diciembre de 1953, con efecto inmediato, con las costas.

Así se ordena.

Parás, Pres., Pablo, Bengzon, Padilla, Montemayor, Reyes, Jugo, Labrador, y Concepcion, MM., están conformes.

BAUTISTA ANGELO, *J., dissenting:*

Tito V. Tizon and Marciano Lim, together with three others, were candidates for the office of Representatives for the second district of Samar. After elections, copies of all election returns coming from all precincts of said district were delivered to the Provincial Board of Canvassers. Before the Board could finish the canvass, seven cases were instituted in the Court of First Instance of Samar where the correctness of the election returns for six precincts in the municipality of Gandara and one precinct in the municipal district of Matuguinao was challenged with respect to the number of votes appearing therein. It was alleged that the number of votes originally appearing in the returns for candidates Tizon and Lim was erased and a higher number of votes was written for Tizon and a lesser number for Lim. Not all the members of the board of inspectors asked for the correction of the returns, as in six of the precincts involved one inspector objected, and in one two inspectors, in sworn statements submitted by them to the court. Motions to dismiss were filed by respondents on the ground of lack of jurisdiction, but they were denied. Hence this petition for certiorari and mandamus.

The provision of law invoked by petitioning inspectors in favor of the correction in section 154 of the Revised Election Code which provides that "After the announcement of the result of the election in the polling place, the board of inspectors shall not make any alteration or amendment in any of its statements, unless it be so ordered by competent court." It is contended, and the majority opinion of this Court has so held, that this legal provision applies to the present case even if the nature of the error to be corrected is controversial in character. I dissent from this finding.

I agree with the majority that there need not be a unanimity on the part of the inspectors in their desire to seek the correction of an election return from the court under section 154. The majority of them would suffice to bring the matter to court. What I contend is that when one at least of the inspectors disputes the fact that an error has been committed, the issue becomes controversial and it takes the case out of the jurisdiction of the court. The reason is obvious. If the issue is controversial, there might need a long, tedious, and protracted hearing where considerable evidence has to be presented which of necessity will delay the proclamation of the winner to the prejudice of public interest. And the situation is aggravated by the fact that the controversy is made dependent upon secondary evidence. The court is powerless under the law invoked to resort to the ballots. To allow the court to act on such controversy merely on circumstantial evidence would be to set wide open the door to collusion and fraud. In my opinion, the subject which might be cognizable under section 154 merely refers to errors that are clerical and which do not involve any argument or dispute. To hold otherwise would be a flagrant encroachment on the functions of the House Electoral Tribunal.

We do not need to go far to look for precedents. Right in this jurisdiction we have one which is on all fours with the present controversy. I refer to the case of Benitez *vs.* Paredes and Dizon, 52 Phil., 10. In that case, where Tomas Dizon and Eulogio Benitez were candidates for governor for the Province of Laguna, Dizon brought an action for mandamus to compel the election inspectors of precinct No. 1 of Longos to correct the copies of the election returns of that precinct so as to show that 157 instead of 207 votes were erroneously counted and adjudicated to Eulogio Benitez. In view of lack of unanimity on the part of the inspectors in so far as the correction of the returns is concerned, this Court ruled that the respondent Judge lacked jurisdiction to entertain the case. This Court, in a lucid language, said: "From the moment that the inspectors or any of them do not agree with the corrections of the returns, the case becomes contentious and, as such, requires the presentation of evidence in order that the court may determine on what ground to grant or not to grant authority to amend the returns in question. Such procedure must, of necessity, be subject to contingencies which will prevent the prompt termination of elections, which must be avoided in the interest of public good."

The law on this matter remains the same. This ruling is still a good law. The majority opinion has not ad-

vanced any plausible reason why it should be disregarded in the present case. I vote for granting the petition.

Se deniega el recurso.

[No. L-6754. February 26, 1954]

MAMERTO MISSION, ET AL., petitioners, *vs.* VICENTE S. DEL ROSARIO, as Acting Mayor of Cebu City, FELIPE B. PAREJA, as City Treasurer and MARTIN KINTANAR, as City Auditor, respondents.

ADMINISTRATIVE LAW; CIVIL SERVICE LAW; DETECTIVES; GROUNDS FOR REMOVAL OF CLASSIFIED EMPLOYEES.—Where the charter of a city classifies the chief of police and the chief of the secret service and all officers and members of the city police and detective force as *peace officers,* performing common functions and duties, both shall be considered as members of the police force and may be removed only on grounds provided for by the Civil Service Law. The removal, for lack of confidence and without investigation or trial, of detectives who are civil service eligibles and who have been in the service for many years with efficiency ratings which are commendable and satisfactory, is illegal and of no valid effect.

ORIGINAL ACTION in the Supreme Court. Mandamus.

The facts are stated in the opinion of the court.

Fernando S. Ruiz for petitioners.
Jose L. Abad for respondents.

BAUTISTA ANGELO, *J.:*

Petitioners were detectives in the Police Department of the City of Cebu duly appointed by the Mayor of the city. Some of the appointees were civil service eligibles. Their rank, length of service, and efficiency rating appear in the certification attached to the petition.

On May 11, 12, and 19, 1953, petitioners were notified by the Mayor that they had been removed because he has lost his confidence in them. Following their removal, the City Treasurer and City Auditor stopped the payment of their salaries, and after their positions had been declared vacant because of their removal, the City Mayor immediately filled them with new appointees who are presently discharging the functions and duties appertaining thereto.

Considering that their removal was made in violation of the law and of the Constitution which protect those who are in the civil service, petitioners filed the present petition for mandamus in this Court praying that their removal be declared illegal and without effect and that their reinstatement be ordered and their salaries paid from the date of their removal up to the time of their reinstatement.

Respondents in their answer tried to justify the removal of petitioners contending that, their positions being primarily confidential, their removal can be effected under Executive Order No. 264 of the President of the Philippines, on the ground of lack of trust or confidence. They claim that the Mayor of Cebu City has lost confidence in them, and so he separated them from the service upon due notice.

The only issue involved in this petition hinges on the determination of the nature of the positions held by petitioners at the time of their removal. Petitioners contend that, having been appointed as detectives, they should be regarded as members of the Police Department of Cebu City and, therefore, they are members of the *city police*. As such they can only be removed in line with the procedure laid down in Republic Act No. 557. On the other hand, respondents contend that petitioners are not members of the police force, but of the detective force, of the City of Cebu, and, therefore, their removal is governed by Executive Order No. 264.

Let us first make a brief outline of the procedure concerning removal laid down in the legislation invoked by the parties before passing on to determine the nature of the positions held by petitioners.

Section 1 of Republic Act No. 557 provides, in so far as may be pertinent to their case, that the members of the *city police* shall not be removed "except for misconduct or incompetency, dishonesty, disloyalty to the Philippine government, serious irregularities in the performance of their duties, and violation of law or duty", and in such cases, charges shall be preferred by the city mayor and investigated by the city council in a public hearing, and the accused shall be given opportunity to make their defense. A copy of the charges shall be furnished the accused and the investigating body shall try the case within ten days from notice. The trial shall be finished within a reasonable time, and the investigating body shall decide the case within fifteen days from the time the case is submitted for decision. The decision of the city council shall be appealable to the Commission of Civil Service.

Executive Order No. 264, on the other hand, prescribes a more summary procedure. It applies to secret service agents or detectives and provides in a general way that the appointing officer may terminate the services of the persons appointed if he deems it necessary because of lack of trust or confidence and if the person to be separated is a civil service eligible, the advice of his separation shall state the reasons therefor. Under this procedure no investigation is necessary, it being sufficient that the appointee be notified of his separation based on lack of confidence on the part of the appointing officer.

An analysis of the pertinent provisions of the Charter of the City of Cebu (Commonwealth Act No. 58) will reveal that the position of a detective comes under the police department of the city. This is clearly deducible from the provisions of sections 32, 34 and 35. Section 32 creates the position of Chief of Police "who shall have charge of the police department and everything pertaining thereto, including the organization, government, discipline, and disposition of the city police and *detective force.*" Section 34 creates the position of the Chief of the Secret Service who shall, under the Chief of Police, "have charge of the detective work of the department and of the detective force of the city, and shall perform such other duties as may be assigned to him by the Chief of Police." And section 35 classifies the Chief of Police and Assistant Chief of Police, the Chief of the Secret Service and all officers and members of the city police and detective force as *peace officers.* Under this set-up it is clear that, with few exceptions, both policemen and detectives perform common functions and duties and both belong to the police department. In contemplation of law therefore both shall be considered as members of the police force of the City of Cebu.

The authorities in the United States are of the same import. Thus, "The word 'detective', as commonly understood, is defined as one of a body of police officers, usually dressed in plain clothes, to whom is intrusted the detection of crimes and the apprehension of the offenders, or a policeman whose business is to detect wrongs by adroitly investigating their haunts and habits." [Grand Rapids & I. Ry. Co. *vs.* King, 83 N. E. 778, 780, 41 Ind. App. 707, citing Am. Dict. and Webst. Dict. (Vol. 12, Words and Phrases, p. 312.)] The term "policemen" may include detectives (62 C. J. S., p. 1091). And "the term 'police' has been defined as an organized civil force for maintaining order, preventing and detecting crimes, and enforcing the laws, the body of men by which the municipal law, and regulations of a city, town, or district are enforced." (Vol. 62, C. J. S., p. 1050.)

It appearing that petitioners, as detectives, or members of the police force of Cebu City, were separated from the service not for any of the grounds enumerated in Republic Act No. 557, and without the benefit of investigation or trial therein prescribed, the conclusion is inescapable that their removal is illegal and of no valid effect. In this sense, the provisions of Executive Order No. 264 of the President of the Philippines should be deemed as having been impliedly repealed in so far as they may be inconsistent with the provisions of said Act. (*See* sec. 6, Republic Act No. 557.) This interpretation is the more justified considering the rank and length of service of many of the petitioners

involved. The great majority of them had been in the service for 6 years, one for 9 years, one for 11 years, one for 14 years and one even for 31 years with an efficiency rating which is both commendable and satisfactory. These data give an inkling that their separation is due to causes other than those recognized by law.

Wherefore, the petition is granted, without pronouncement as to costs.

Parás, C. J., Pablo, Bengzon, Padilla, Montemayor, Reyes, Jugo, Labrador, Concepcion, and *Diokno, JJ.*, concur.

Petition granted.

[No. L-6130. February 26, 1954]

PUEBLO DE FILIPINAS, recurrente, *contra* JUEZ CALUAG Y OTROS, recurridos

1. DERECHO PENAL; RESPONSABILIDAD CRIMINAL; SOBORNO, FALSIFICACIÓN; HURTO.—Responden criminalmente los particulares que según la querella lograron sustraer y apropiarse de propiedades públicas avaluadas en P100,745.33, conspirando con sus cuatro coacusados superintendente, bodeguero, auditor y guardia de la North Base X de la Surplus Property Commission, corrumpiéndoles mediante soborno y alterando sustancialmente un *Invoice* librado a favor de uno de ellos. El delito imputado es un delito complejo del que son responsables criminalmente no sólo los funcionarios acusados, sino también cuantas personas tomaron parte en él. Dichos particulares son autores, o principales, del delito cometido, y por tanto criminalmente responsables del mismo. La conspiración con los funcionarios que tenían a su cargo las propiedades hace a los particulares tan responsables como los funcionarios. (U. S. *vs.* Remigio, 37 Phil., 599 y casos citados; People *vs.* Iman, 60 Phil., 348.) El soborno a los funcionarios hace asimismo a los particulares responsables criminalmente en igual grado. (Cód. Pen. Rev., art. 212.) La alteración fraudulente del *Invoice* para poder extraer los artículos mencionados en él dos en agrava la penalidad. (Cód. Pen. Rev., art. 48, según está enmendado por la Ley 4000.)

2. PROCEDIMIENTO PENAL; CERTIORARI CONTRA UNA ORDEN SOBREYENDO LA QUERELLA.—No frustra el recurso el detalle de que en Pueblo podía haber apelado, y apeló fuera de tiempo. Aunque ordinariamente es importante que no exista apelación, o que ésta sea inadecuada para la viabilidad del recurso, no por falta del requisito ha de permitirse el extravio irremediable de la justicia. Es más importante el requisito de que no haya jurisdicción, o haya exceso de ella o grave abuso de discreción, que perjudica derechos sustanciales. Por eso en numerosos casos el Tribunal Supremo ha concedido el recurso aunque el remedio propio era la apelación, a esta se ha presentado fuera de tiempo, o no se ha presentado ninguna.

3. JEOPARDY.—El artículo 8 de la Regla 113 dice expresamente que una orden sosteniendo una moción de sobreseimiento no impide otro proceso por el mismo delito, a menos que la moción se funde en los incisos *f* y *h* del artículo 2 de dicha regla. Una moción de sobreseimiento, que es una reiteración de la presentada antes de la contestación a la querella, aunque se haya

presentado durante el período de pruebas, pero antes de la presentación de las mismas, es de la misma índole. Y no vale alegar que no pidió tanto como ordenó el Juzgado; cuando se quiere aprovecharse del tanto de exceso es que se ha deseado obternerlo.

JUICIO ORIGINAL en el Tribunal Supremo. Certiorari y mandamus.

Los hechos aparecen relacionados en la decisión del Tribunal.

Pedro C. Quinto en representación del recurrente.

Cezar F. Mata en representación del recurrido Elizabeth R. Wilson.

Emiliano R. Navarro en representación del recurrido Gabriel K. Pascual.

DIOKNO, *M.*:

La cuestión decisiva en este recurso es esta. No responden criminalmente de nada los particulares, los recurridos Wilson y Pascual en el presente caso, que según la querella lograron sustraer y apropiarse de propiedades públicas avaluadas en ₱100,745.33, (1) conspirando con sus cuatro coacusados Superintendente, Bodeguero, Auditor y guardia de la North Base X, Engineering Depot 14, de la Surplus Property Commission ubicada en Quezon City, (2) corrompiéndolos mediante soborno y (3) alterando sustancialmente un Invoice librado a favor de uno de ellos.

La teoría de los recurridos Wilson y Pascual, sostenida por el Juzgado *a quo*, es que con esos hechos no han cometido delito alguno. Consecuentemente el Juzgado de Primera Instancia recurrido sobreseyó la causa en cuanto a ellos, con las costas de oficio.

El delito imputado es un delito complejo del que son responsables criminalmente no sólo los funcionarios acusados, sino también cuantas personas tomaron parte en la forma indicada. Los recurridos Wilson y Pascual son autores, o "principales", del delito cometido, y por tanto criminalmente responsables del mismo. Código Penal Revisado artículos 16, 17, 210, 212, 217; U. S. *vs.* Dowdel, 11 Phil., 4; U. S. *vs.* Ponte, 20 Phil., 379; U. S. *vs.* Ipil, 27 Phil., 530; U. S. *vs.* Dato, 37 Phil., 359; Fajardo *vs.* People, G. R. No. L–7370. La conspiración con los funcionarios que tenían a su cargo las propiedades hace a los particulares tan responsables como los funcionarios. U. S. *vs.* Remigio, 37 Phil., 599 y casos citados; People *vs.* Iman, 60 Phil., 348. El soborno a los funcionarios hace asimismo a los particulares responsables criminalmente en igual grado. Cód. Pen. Rev., art. 212. La alteración fraudulenta del invoice de Wilson para poder extraer los 24 generados agrava la penalidad. Código Penal Rev., art. 48, según está enmendado por la Ley No. 4000.

No frustra el recurso el detalle de que el Pueblo podía haber apelado, y apeló fuera de tiempo. En este caso el Fiscal interino había recibido el 30 de junio, 1952, un telegrama del Secretario de Justicia para que vaya a Bacolod a ayudar al Fiscal Provincial en la causa criminal contra el ex-Senador Pedro Hernaez, Capitan Junsay y otros. Fué a Bacolod el 1.º de Julio, 1952, y volvió a Manila el 5, y a su oficina en Quezon City el lunes, día 7. Y solo se enteró de la orden recurrida en dicho día 7 de Julio. Aunque ordinariamente es importante que no exista apelación, o que esta sea inadecuada para la vialibilidad del recurso, no por falta del requisito ha de permitirse el extravío irremediable de la justicia. Es más importante el requisito de que no haya jurisdicción, o haya exceso de ella o grave abuso de discreción, que perjudica derechos sustanciales. Por eso en numerosos casos este Tribunal ha concedido el recurso aunque el remedio propio era la apelación, o esta se ha presentado fuera de tiempo, o no se ha presentado ninguna. Alfonso *vs.* Yatco, 45 Off. Gaz., (Supp. to No. 9) 35; Director of Lands *vs.* Abada, 41 Phil., 71; Director of Lands *vs.* Santamaria, 44 Phil., 594; Director of Lands *vs.* Gutierrez David, 50 Phil., 297; Perlas *vs.* Concepción, 34 Phil., 559; Dais *vs.* Court of First Instance, 51 Phil., 396; Cavan *vs.* Wislizenus, 48 Phil., 632; Lipana *vs.* Court of First Instance, 70 Phil., 365; Augustinos *vs.* Judge, 45 Off. Gaz., (Sup. to No. 9) 184; Crisóstomo *vs.* Judge, 66 Phil., 1; Reyes *vs.* Borbon, 51 Phil., 291; Gov. *vs.* Judge, 57 Phil., 500; Clemente *vs.* Lukban, 53 Phil., 931; Antiporda *vs.* Mapa, 55 Phil., 89. Y esa el caso de autos.

El acusado no está en *jeopardy*. El artículo 8 de la Regla 113, Reglamento de los Tribunales, dice expresamente que una orden sosteniendo la moción de sobreseimiento no impede otro proceso por el mismo delito, a menos que la moción se funde en los incisos (*f*) y (*h*) del artículo 2 de dicha regla. Una moción de sobreseimiento, que es una reiteración de la presentada antes de la contestación a la querella, aunque se haya presentado durante el periodo de pruebas, pero antes de la presentación de las mismas, es de la misma índole. Y no vale alegar que no pidió tanto como ordenó el Juzgado recurrido; cuando se quiere aprovecharse del tanto de exceso es que se ha deseado obtenerlo.

EN VIRTUD DE LO EXPUESTO, se concede el recurso. Las ordenes recurridas de fechas 18 de junio y 23 de septiembre de 1952 quedan revocadas, con costas a los recurridos Wilson y Pascual.

Así se ordena.

Parás, Pres., Pablo, Padilla, Montemayor, Reyes, Jugo, Labrador y *Concepción, MM.*, están conformes.

[No. L-7302. Febrero 25, 1954]

LUIS T. CLARIN, recurrente, *contra* HON. HIPOLITO ALO, ET AL., recurridos

1. ELECCIONES; PROCLAMACIÓN DEL RESULTADO DE LA ELECCIÓN; CORRECCIÓN DEL ACTA ELECTORAL; JURISDICCIÓN DEL JUZGADO DE PRIMERA INSTANCIA.—Después de terminada la elección en el precinto electoral, la corrección del acta electoral puede occurir cuando la junta de inspectores lo pide al Juzgado dc Primera Instancia y éste, en el ejercicio de su sana discreción, lo encuentra procedente. El procedimiento al efecto es sumario y la resolución judicial es final y ejecutoria a los fines del escrutinio solamente. No es nadá concluyente en la protesta electoral que pudiera seguir a la proclamación del resultado de la elección.
2. ID.; ID.; ID.; ID.—Cuando se descubre antes de la proclamación del resultado de la elección discrepancias entre dos o más de los cuatro ejemplares del mismo acta, o entre dichas ejemplares y ciertas copias auténticas de la misma servidos oficialmente a los interventores por los inspectores de elección, en cuanto al número de votos obtenidos por ciertos candidatos, cabe la enmienda de las actas equivocadas o falsas, para evitar una proclamación fraudulente de elección. Pero ya so son los inspectores de elección los que piden a realizan la corrección. Son la junta de escrutinio o los candidatos los que piden y es el Juzgado de Primera Instancia el que la hace. (Art. 165, Cód. Elec. Rev.). Este procedimiento es tambien sumario. y la decisión tiene los mismos efectos de la de los casos seguidos conforme al artículo 154 del Código Electoral Revisado.
3. ID.; ID.; ID.; ID.—Por dicho procedimiento ante el Juzgado de Primera Instancia no se ha invadido atribución alguna de la Comisión de Elecciones (art. 154, Cód. Elec. Rev.), toda vez que dicha Comisión no ha entendido ni resuelto la cuestión de la enmienda del acta electoral.
4. ID.; ID.; ID.; ID.—No se trata en el artículo 154 del Código Electoral Revisado de protestas electorales contra *miembros* de las cámaras legislativas, y por tanto no se ha invadido por dicho artículo la jurisdicción del Tribunal Electoral.
5. ID.; ID.; ID.; INTERDICTO PROHIBITORIO PRELIMINAR; LEVANTAMIENTO DEL MISMO.—La cuestión del levantamiento del interdicto prohibitorio preliminar expedido por el Juzgado de Primera Instancia en un asunto de mandamus pendiente ante dicho Juzgado debe plantearse primeramente ante el Juzgado que lo expidió, y no se puede quejar que continue pendiente en un procedimiento de prohibición presentado ante el Tribunal Supremo de que continúe pendiente dicha cuestión en el Juzgado inferior si había un convenio de dejarla la cuestión para más adelante.
6. ID.; ID.; TECNICISMOS QUE NO MERECEN CONSIDERACIÓN.—El derecho a ser proclamado electo es valioso, en vista de la experiencia de que las protestas electorales suelen consumir casi la mitad del periodo de cargo, durante el cual el declarado electo lo disfruta, con los salarios y emolumentos correspondientes. De ahí, el cuidado que debe desplegarse es evitar proclamaciones de elección que pueden resultar fraudulentas, con los daños irreparables consiguientes. Los tecnicismos no merecen consideración y deben ser censurados energicamente cuando se usan para cometer, encubrir o fomentar el fraude.

DIOKNO, *M.:*

1. El recurrente pide, en primer lugar, que este Tribunal prohiba al Juzgado recurrido quen continue conociendo de la peticion de los recurridos inspectores de elección del precinto No. 10 de Antequera, Bohol (asunto No. 150 del Juzgado de Primera Instancia) para que se los permita corregir el acta electoral de modo que incluya su resolución sobre 82 balotas que pusieron en un sobre rotulado "Ballots under Protest", por el fundamento de que el Juzgado recurrido no tiene jurisdicción sobre el caso, porque estando completa la elección en el precinto para todos los propósitos legales la determinación de la cuestión de si el acta electoral expresa fielmente los procedimientos electorales en dicho precinto corresponde exclusivamente al Tribunal Electoral, y por la razón adicional de que habiendo la Comisión de Elecciones resuelto que siga la Junta Provincial de Escrutinio con el escrutinio, no es el Juzgado recurrido, sino la Corte Suprema, en apelación, quien puede suspender, revocar o modificar la orden.

1.º Después de terminada la elección en el precinto electoral, la Junta de Inspectores del mismo puede corregir el acta en los seguientes casos:

(*e*) Cuando la Junta de escrutinio se lo devuelva, para llenar requisitos de forma omitidos. La devolución del acta no puede, hacerse, sin embargo, para un recuento de las balotas, o para alterar el número de votos consignados en el acta. Artículo 162, Código Electoral Revisado.

(*b*) Con autorización o por orden del Juzgado competente, en todos los otros casos. Artículo 154, Código Electoral Revisado.

Esta facultad consta en nuestra legislación electoral desde el 3 de diciembre de 1927, cuando la Ley No. 3387, titulada "Ley que revisa y compila la Ley Electoral, Capítulo 18 del Código Administrativo, y enmienda la Sección III, Capitulo 65 de dicho Código en lo que concerno a las infracciones relativas a las elecciones y a los funcionarios electivos", enmendó el artículo 465. Entonces no existía aun la Comisión de Elecciones, ni se pensaba en su creación. Era el Secretario del Interior el que tenia la inmediata supervision administrativa de la ejecución de las leyes electorales. En aquel tiempo se entendía que "juzgado competente" significa juzgado de Primera Instancia de la provincia o ciudad correspondiente, y asi ha entendido este Tribunal en los casos de Benitez *vs.* Juez Paredes, (1928) 52 Jur. Fil., 1; Dizon *vs.* Junta Provincial de Escrutinio de Laguna (1928), 52 Jur. Fil., 49; Aguilar *vs.* Navarro (1931), 53 Jur. Fil., 63; Junta de Inspectores de Boñgabon *vs.* Juez Sison (1931), 55 Jur. Fil., 980.

La creación posterior de la Comisión de Elecciones no ha alterado el significado de la frase. La disposición que

nos ocupa se ha venido reproduciendo después, literalmente, como artículo 149 del Código Electoral (Com. Act No. 357, Código Electoral, Agosto 22, 1938) y como artículo 154 del Código Electoral Revisado vigente, Republic Act No. 180 de junio 21, 1947. Este Código Revisado fue enmendado después por las leyes de la República Nos. 599 y 867, y la disposición que nos ocupa se ha mantenido inalterada.

2.° Los casos arriba citados dicen que la corrección del acta puede ocurrir cuando la junta de inspectores lo pide y el juzgado, en el ejercicio de su sana discreción, lo encuentra procedente. El procedimiento al efecto es sumario y la resolución judicial es final y ejecutoria a los fines del escrutinio solamente. No es nada concluyente en la protesta electoral que pudiera seguir a la proclamación del resultado de la elección. Durante la deliberación de este recurso se sugirió que debía haber unanimidad en los inspectores de elección en el deseo de corregir el acta. En contra se dijo que la unanimidad no era necesario, pues sí es bastante una mayoría de los inspectores para decidir la acción de la Junta, como provee el artículo 87 del Código Electoral Revisado, y también el artículo 146, debe ser bastante igualmente una mayoría de la junta para poder someter al juzgado la justicia y propiedad de la corrección o enmienda del acta y para que el juzgado, previa audiencia del otro inspector y de las partes interesadas, pueda hacer uso de su discreción judicial. Pero no es necesario resolver ahora este punto toda vez que en el presente caso existe unanimidad en los inspectores de elección. También se sugirió que puede frustrar la petición de los inspectores el que un candidato se oponga, porque convertiria el procedimiento en contencioso, pero tampoco hay necesidad de tener en cuento aquí este punto, 1.° porque la cuestion no se ha planteado en primera instancia; 2.° porque el artículo 154 del Código Electoral Revisado limita el deceho a pedir la corrección del acta, por la responsabilidad que han contraído, a los inspectores de elección, y la intervencion por tanto de los candidatos en el incidente es sólo para que puedan evitar toda posible colusión fraudulenta entre los inspectores de elección; 3.° porque no hay cuestión al parecer de que existen las alegadas ochenta y dos balotas que han quedado sin adjudicarse por la junta electoral, y 4.° la existencia de alguna posible contienda no hace que deje de ser sumario el procedimiento, pues en las protestas electorales es constante la condición contenciosa y no obstante el procedimiento continua siendo sumario. Artículos 175–178, Código Electoral Revisado; Rule 132 Rules of Court; Arnedo *vs.* Llorente, 18 Phil., 237, 272; Gardiner *vs.* Romulo, 26 Phil., 522, 524; Demetrio *vs.* Lopez, 50 Phil., 45.

3.° No son solamente defectos de forma o errores o omisiones de votos los que pueden adolecer las actas

electorales. Han ocurrido con frecuencia discrepancias entre dos o más de los cuator ejemplares del mismo acta, o entre dichas ejemplares y ciertas copias auténticas de la misma servidas oficialmente a los interventores por los inspectores de elección, en cuanto al número de votos obtenidos por ciertos candidatos. Cuando esto se descubre antes de la proclamación del resultado de la elección, cabe la enmienda de las actas equivocadas o falsos, para evitar una proclamación fraudulenta de elección. Pero ya no son los inspectores de elección los que piden o realizan la corrección. Son la junta de escrutinio o los candidatos los que piden y es el Juzgado de Primera Instancia el que la hace, conforme al artículo 165 del Código Electoral Revisado que dice así:

SEC. 163. *When statements of a precinct are contradictory.*— In case it appears to the provincial board of canvassers that another copy or other authentic copies of the statement from an election precinct submitted to the board give to a candidate a different number of votes and the difference affects the result of the election, the Court of First Instance of the province, upon motion of the board or of any candidate affected, may proceed to recount the votes cast in the precinct for the sole purpose of determining which is the true statement or which is the true result of the count of the votes cast in the said precinct for the office in question. Notice of such proceeding shall be given to all candidates affected. (C. A., 357-158).

Este procedimiento es también sumario, y la decisión tiene los mismos efectos de la de los casos seguidos conforme al Art. 154 arriba mencionado.

Se observará que en el caso del artículo 163, como en el del artículo 154 es el Juzgado de Primera Instancia y no la Comisión de Elecciones la autoridad autorizada a intervenir, y la razon es que la cuestión envuelta es algo mas que administrativa porque afecta el derecho de votar, que seria vano sí el voto del elector pudiera ser excluido arbitrariamente y sin remedio expedito del escrutinio.

4.º No se ha invadido atribución alguna de la Comisión de Elecciones, primero, porque el artículo 154 del Código Electoral Revisado claramente confiere jurisdicción al Juzgado de Primera Instancia a ordenar o no la corrección del acta, según su sana discreción judicial, y no se cuestiona la validez constitutucional del artículo mencionado; y segundo, porque la Comisión de Elecciones no ha entendido ni resuelto la cuestión de la enmienda del acta electoral, sin duda porque afectando a la apreciación y validez de los 82 votos protestados, no es de su competencia resolver si deben ser contados o no en el escrutinio.

5.º Y no se ha invadido la jurisdicción del Tribunal Electoral, porque la de éste es sobre *protestas* contra la elección acta y cualificación de los *miembros* de la respectiva Cámara, y no se trata en el artículo 154 de *protestas electorales* contra *miembros* de las cámaras legislativas.

En conclusión, somos de opinión y así declaramos que la petición de que se impida perpetuamente al juzgado recurrido a conocer de la petición de los inspectores (No. 150) no está bien fundada.

II. El recurrente pide en segundo lugar que este Tribunal disuelva el interdicto prohibitorio preliminar que el Juzgado recurrido ha librado contra la Junta Provincial de Escrutinio en el asunto de mandamus (No. 821) para que se abstenga de proclamar el resultado de la elección de representante del primer distrito de Bohol hasta que se decida la cuestión de la corrección del acta del precinto No. 10 de Antequera.

Según la petición del recurrente, las partes han convenido, con la aprobación del juzgado, limitar lo que se habia de someter de la resolución de este a la moción de sobreseimiento de la petición de los inspectores en el asunto No. 150, reservando las otras cuestiones en dicho asunto y en el No. 821 para más adelante, por la razon de que la cuestión básica planteada en dicha moción de sobreseimiento determina las otras. Y esa fue, en efecto, la única que resolvió el Juzgado recurrido.

Es elemental que la cuestión del levantamiento del interdicto preliminar expedido en el asunto de mandamus No. 821 debe plantearse primeramente ante el Juzgado que lo expidió, no puede el recurrente quejarse que continue pendiente dicha cuestión en el Juzgado inferior en vista del convenio de dejarlo para más adelante. Ahora no es el tiempo ni aqui el lugar en que debe plantearse la cuestión.

Es además obvio que teniendo el juzgado recurrido jurisdicción para conocer de la petición de los inspectores, la moción de disolución del interdicto debe esperar el resultado de la citada petición.

III. Finalmente, el recurrente pide que se ordene a la Junta Provincial de Escrutinio que proceda al escrutinio de los votos para el cargo de representante por el primer distrito de Bohol con vista del acta que se ha enviado al Tesorero Provincial y que está pendiente de lo que resuelva el Juzgado recurrido sobre la petición de corrección de la misma.

Teniendo en cuenta que el juzgado recurrido tiene jurisdicción para decidir sobre la corrección del acta y habiendo quedado pendiente dicho asunto por el interdicto prohibitorio preliminar que aquí se ha librado a petición del recurrente, es prematura la orden pedida. Lo que ahora procede es que las partes urjan y cooperen en la pronta terminación de los asuntos pendientes.

El derecho a ser proclamado electo es valioso, en vista de la experiencia de que las protestas electorales suelen consumir casi la mitad del período de cargo, durante el cual

el declarado electo lo disfruta, con los salarios y emolumentos correspondientes. De ahí el cuidado que debe desplegarse es evitar proclamaciones de elección que pueden resultar fraudulentas, con los daños irreparables consiguentes. Si en efecto existen, como se alega, y como parecen indicar los documentos exhibidos por el propio recurrente (Apendices "A", "N",—acta electoral en que se dice que no hubo balota alguna rechazada en el precinto—"HH", "II", "JJ", "KK", "LL",) y el anexo "A" del memorandum de los recurridos de Diciembre 18, 1953, ochenta y dos (82) balotas válidas a favor de "Talio Castillo", que deben adjudicarse al candidato Natalio Castillo, cuyo número de votos se admite decidirán la proclamación de la elección a favor de este, será un fraude manifiesto ignorar tales votos, valiéndose de tecnicismos legales, para frustar su proclamación. Los tecnicismos no merecen consideración y deben ser censurados enérgicamente cuando se usan para cometer, encubrir o fomentar el fraude.

Se desestima el recurso en todas sus partes, con las costas al recurrente. El interdicto prohibitorio preliminar librado en este recurso queda por la presente disuelto, con efecto inmediato. Los daños que el interdicto prmilinar haya causado a alguna parte se presentarán y determinarán en el asunto No. 150 del Juzgado de Primera Instancia. Asi se ordena.

Se desistima el recurso.

Parás, Pres., Pablo, Bengzon, Padilla, Montemayor, Jugo, y *Labrador, MM.,* están conformes.

Reyes, Bautista Angelo y *Concepcion, MM.,* conforme en el resultado.

[No. L-6511. February 25, 1954]

ASSOCIATION OF DRUGSTORE EMPLOYEES, petitioner, *vs.* ARSENIO C. ROLDAN, ET AL., respondents

EMPLOYER AND EMPLOYEES; REINSTATEMENT OF DISMISSED EMPLOYEES; BACK WAGES; JUDGMENTS, MODIFICATION OF.—On March 4, the Court of Industrial Relations ordered the reinstatement of five employees of the respondent company to the same position from which they had been dismissed, with pay from the time of their dismissal. This decision became final after July 7. On October 21, said court issued an order holding that the five employees are entitled to back wages only from the date of their dismissal, until June 12, when their attorney was advised verbally that they should report for duty. They failed to report for duty. *Held:* Without deciding whether the verbal notice to report for duty was sufficient as a matter of law, said notice cannot, for practical purposes, be decisive against said employees, in view of the allegation that the latter lived in different places and in the provinces, with the result that compliance with the notice could not have been expected right on June 12. In sus-

pending the payment of the back wages and holding that the same should be only up to June 12, said Court has departed from the terms of its final and executory decision of March 4.

PETITION to review on certiorari an order of the Court of Industrial Relations.

The facts are stated in the opinion of the court.

Enage & Beltran for petitioner.

Antonio Barredo and *Alfredo B. Concepcion* for respondent Farmacia Oro.

Pastor R. Reyes for respondent Judges of the Court of Industrial Relations.

PARÁS, *C. J.:*

On March 4, 1952, the Court of Industrial Relations issued an order directing Farmacia Oro "to reinstate Leonila Calcas, Marina C. Villaroman, Salud Aranza, Vicente Sayago and Quirico Saratan to the same position from which they were removed, with pay from the time of their dismissal." The two motions for reconsideration filed by Farmacia Oro having been denied, and the decision of March 4 having become final, the Association of Drugstore Employees, in representation of the aforementioned five employees, filed on May 21, 1952, a motion for the issuance of the writ of execution, followed by similar motion filed on June 13, 1952, but these motions were not acted upon. On July 14, 1952, the association filed a supplemental motion for execution and, after hearing, the corresponding writ was issued on July 31, 1952. On August 14, 1952, the five employees were brought by a deputy sheriff of Manila to the store of Farmacia Oro at Rizal Avenue, Manila, but they were admitted in positions lower than what they held prior to their dismissal. On August 31, 1952, they were dismissed by Farmacia Oro on the ground that the latter had to close two branch stores, but the corresponding motion for permission to close is still pending.

In virtue of the writ of execution of July 31, 1952, the sheriff of Manila garnished from the account of Farmacia Oro in the Philippine Trust Co. the sum of ₱5,295.24, representing the back wages of the five employees from October 31, 1951, when they were dismissed, until July 31, 1952, when the writ of execution was issued. On September 22, 1952, the Court of Industrial Relations authorized its clerk of court to make the proper disbursement of the amount of ₱5,295.24; but before this could be done Farmacia Oro filed on September 24, 1952, a motion to suspend the payment on the alleged grounds (1) that during the pendency of the case in court, the five employees had employment elsewhere, and the amount of their wages received therefrom should be deducted, and (2) that before the decision of March 2, 1952 became final and executory, or on

June 12, 1952, said employees, through their attorneys, were asked to report for duty and because they failed to do so, Farmacia Oro was not bound to pay back wages from the date of such notice.

On October 21, 1952, Presiding Judge Arsenio C. Roldan of the Court of Industrial Relations issued an order holding that the five employees involved are entitled to back wages only from October 23, 1951, the date of their dismissal, until June 12, 1952, when they were advised, but failed, to report for duty. The Association of Drugstore employees filed a motion for reconsideration which was denied by resolution of the court *in banc* of January 6, 1953, with Presiding Judge Arsenio C. Roldan and Associate Judges Modesto Castillo and Juan L. Lanting voting for said resolution, Associate Judge Jose S. Bautista, concurred in by Associate Judge V. Jimenez Yanson, voting against. The association has filed the present petition for review on certiorari.

The court *a quo* found that the five employees, through their counsel, were notified on June 12, 1952, to report for duty and they defaulted without justification. It appears, however, that at the time the alleged notice was given the decision of March 4, 1952 was not yet final and executory, since, as a matter of fact, the petition for review on certiorari of said decision filed by Farmacia Oro with the Supreme Court (G. R. No. L–5744) had not yet been finally disposed of, since the latter's judgment dismissing said petition for certiorari became final only on July 7, 1952. In this connection it is noteworthy that no opposition was interposed whatsoever by Farmacia Oro to the three motions for execution filed with the Court of Industrial Relations, and this logically controverted the legal effect, if any, of the notice of June 12, 1952, and conveyed the idea that execution was necessary to restore the five employees concerned to their former positions. That Farmacia Oro placed said employees in lower positions when they were brought to its store on August 14, 1952 by a deputy sheriff, in pursuance of the writ of execution of July 31, 1952, is inconsistent with the claim that Farmacia Oro intended to reinstate said employees as early as June 12, 1952.

Without deciding whether the verbal notice to report for duty given by Farmacia Oro to counsel for the five employees on June 12, 1952, was sufficient as a matter of law, said notice cannot for practical purposes be decisive against said employees, in view of the allegation that the latter lived in different places and in the provinces, with the result that compliance with the notice could not have been expected right on June 12.

In suspending the payment of the back wages of the five employees involved, and holding that the same should

be only up to June 12, 1952, the Court of Industrial Relations has departed from the terms of its final and executory decision of March 2, 1952.

Wherefore, the order of October 21, 1952 and the resolution of January 6, 1953, herein complained of, are hereby set aside, and the Court of Industrial Relations is directed to enforce its decision of March 4, 1952. So ordered with costs against the respondent Farmacia Oro.

Pablo, Bengzon, Padilla, Reyes, Jugo, and *Bautista Angelo, JJ.,* concur.

Montemayor, J., reserves his vote.

Order of Oetober 21, 1952 and the resolution of January 6, 1953, set aside.

[Nos. L-6334 and L-6346. February 25, 1954]

SEBASTIAN C. PALANCA, petitioner, *vs.* POTENCIANO PECSON, ETC., ET AL., respondents

1. ATTORNEY AND CLIENT; ATTORNEY'S LIEN, NOTICE OF, BEFORE JUDGMENT; RECORDING AND ENFORCEMENT OF LIEN DISTINGUISHED.—Under section 33 of Rule 127, an attorney may cause a statement of his lien to be registered even before the rendition of any judgment, because the purpose of recording his lien is merely to establish his right thereto, as distinguished from the enforcement of the lien which takes place only after the judgment is secured in favor of the client.
2. ID.; ID.; ID.; NOTICE BY ATTORNEY WHO QUITS OR IS DISMISSED BEFORE TERMINATION OF CASE.—The reglementary provision also permits the registration of an attorney's lien, although the lawyer concerned does not finish the case successfully in favor of his client.
3. ID.; ID.; ID.; ID.; PROBATE COURT MAY DETERMINE ATTORNEY'S FEES.—The application to fix attorney's fees may be made before and passed upon by the probate court in the same proceedings where attorney's services were rendered.

ORIGINAL ACTION in the Supreme Court. Certiorari and mandamus.

The facts are stated in the opinion of the court.

Ceferino de los Santos, Sr. and *Ceferino de los Santos, Jr.* for petitioner.

Rafael Dinglasan in his own behalf.

PARÁS, *C. J.:*

In Special Proceedings No. 12126 of the Court of First Instance of Manila, Rafael Dinglasan was the attorney of Sebastian Palanca, one of the heirs and an oppositor to the probate of the will of his deceased father Carlos Palanca y Tanguinlay. Due to differences of opinion, Sebastian Palanca did away with the services of Atty. Dinglasan who in fact withdrew as Palanca's counsel after the appeal from the decision of the Court of First Instance of Manila probating the will had been elevated to the

Supreme Court. On July 7, 1952, Atty. Dinglasan filed in the testate proceedings a notice of attorney's lien, alleging that he was counsel of Sebastian Palanca from September 1950 until March 1952; that the reasonable value of his services is at least ₱20,000; that Palanca had paid upon account only the sum of ₱3,083, leaving an unpaid balance of ₱16,917; and praying that the statement be entered upon the records to be henceforth a lien on the property or money that may be adjudged to Sebastian Palanca, or that may be ordered paid to him by the court. On August 16, 1952, Judge Potenciano Pecson ordered that the notice of attorney's lien be attached to the record for all legal intents and purposes. On July 9, 1952, Atty. Dinglasan filed in the same testate proceedings a petition, praying the Court of First Instance of Manila to fix and declare his attorney's fees at not less than ₱20,000 and to enforce the unpaid balance of ₱16,917 as a lien upon the property or money that may be adjudged in favor of Sebastian Palanca or upon any sum that may be ordered paid to the latter. Sebastian Palanca moved to dismiss the foregoing petition, but the motion was denied on August 30, 1952. Palanca's subsequent motion for reconsideration was also denied for lack of merit. The action of Judge Pecson in ordering that Atty. Dinglasan's notice of attorney's lien be attached to the record and in taking cognizance of the petition to determine his fees in Special Proceedings No. 12126, is assailed by Sebastian Palanca in a petition for certiorari filed with this Court against Judge Potenciano Pecson and Rafael Dinglasan (G. R. No. L-6334).

On July 10, 1952, Sebastian Palanca filed in the testate proceedings a petition for an advance inheritance in the sum of ₱2,000. On October 21, 1952, Judge Pecson issued an order suspending action on Palanca's petition until Atty. Dinglasan's petition to determine the amount of his attorney's lien shall have been finally disposed of. His motion for reconsideration having been denied on November 7, 1952, Sebastian Palanca instituted in this Court a petition for mandamus against Judge Pecson and Atty. Dinglasan (G. R. No. L-6346), to compel the respondent Judge to act upon Palanca's petition for advance inheritance.

We are not here concerned with the nature and extent of the contract between Palanca and Atty. Dinglasan as to the latter's professional fees, and the principal issues arising from the pleadings are (1) whether the notice of attorney's lien may be allowed at the stage when it was filed, namely, before final judgment in favor of Palanca was secured by respondent attorney, and (2) whether the respondent Judge acted properly in entertaining the petition to determine Atty. Dinglasan's fees and in holding in abeyance Palanca's petition for advance inheritance.

It is contended for petitioner Palanca that Atty. Dinglasan not having yet secured any decision or judgment in favor of the former, the notice of attorney's lien could not be allowed under section 33, Rule 127, of the Rules of Court which does not authorize a lien upon a cause of action.

Section 33 provides that an attorney "shall also have a lien to the same extent upon all judgments for the payment of money, and executions issued in pursuance of such judgments, which he has secured in a litigation of his client, from and after the time when he shall have caused a statement of his claim of such lien to be entered upon the records of the court rendering such judgment, or issuing such execution, and shall have caused written notice thereof to be delivered to his client and to the adverse party; and he shall have the same right and power over such judgments and executions as his client would have to enforce his lien and secure the payment of his just fees and disbursements." Under this provision we are of the opinion that the attorney may cause a statement of his lien to be registered even before the rendition of any judgment, the purpose being merely to establish his right to the lien. The recording is distinct from the enforcement of the lien, which may take place only after judgment is secured in favor of the client. We believe also that the provision permits the registration of an attorney's lien, although the lawyer concerned does not finish the case successfully in favor of his client, because an attorney who quits or is dismissed before the conclusion of his assigned task is as much entitled to the protection of the rule. Otherwise, a client may easily frustrate its purpose. Indeed, this construction is impliedly warranted by section 24 of Rule 127, which as amended by Republic Act No. 636 provides as follows: "A client may at anytime dismiss his attorney or substitute another in his place, but if the contract between client and attorney has been reduced to writing and the dismissal of the attorney was without justifiable cause, he shall be entitled to recover from the client the full compensation stipulated in the contract. For the payment of such compensation the attorney shall have a lien upon all judgments, for the payment of money and executions issued in pursuance of such judgments rendered in the cases wherein his services had been retained by the client." The petitioner, however, argues that this provision cannot be availed of by respondent Dinglasan because there is neither a written contract for attorney's fees nor a showing that his dismissal was unjustified. This argument is without merit, inasmuch as if there was a written contract and the dismissal was unjustified, Atty. Dinglasan would be entitled to the entirety of the stipulated compensation, even if the case was not yet finished when

he was dismissed. In situations like that of respondent Dinglasan the lawyer may claim compensation only up to the date of his dismissal. For the payment of such compensation he shall nevertheless have a lien "upon all judgments, for the payment of money and executions issued in pursuance of such *judgments rendered in the cases wherein his services have been retained by the client.*" Section 24 does not state that the judgment must be secured by the attorney claiming the lien.

The petitioner's further contention that respondent Dinglasan's remedy is to file a separate action for damages or for compensation, is untenable. In the case of Dahlke *vs.* Viña, 51 Phil., 707, it was already pointed out that the filing of a lien for reasonable value of legal services does not by itself legally ascertain and determine its amount especially when contested; that it devolves upon the attorney to both allege and prove that the amount claimed is unpaid and that it is reasonable and just, the client having the legal right to be heard thereupon; and that the application to fix the attorney's fees is usually made before the court which renders the judgment or may be enforced in an independent and separate action. We see no valid reason why a probate court cannot pass upon a proper petition to determine attorney's fees, if the rule against multiplicity of suits is to be activated and if we are to concede that, as in the case before us, said court is to a certain degree already familiar with the nature and extent of the lawyer's services.

In view of what has been said, it is obvious that the respondent Judge neither acted jurisdiction nor abused his discretion in the matters herein complained of. The petition for certiorari in G. R. No. L–6334 and the petition for mandamus in G. R. No. L–6346 are hereby dismissed with costs against the petitioner. So ordered.

Pablo, Bengzon, Padilla, Montemayor, Reyes, Jugo, Bautista Angelo, and *Labrador, JJ.,* concur.

Petition for certiorari and mandamus dismissed.

[No. L–6088. February 25, 1954]

CATALINA DE LOS SANTOS, in her capacity as administratrix of the intestate estate of the deceased Julio Sarabillo, plaintiff and appellee, *vs.* ROMAN CATHOLIC CHURCH OF MIDSAYAP, Most Rev. LUIS DEL ROSARIO and Rev. GERARD MONGEAU, defendants and appellants.

1. HOMESTEADS; PURCHASE AND SALE; SALE BEFORE THE EXPIRATION OF FIVE YEARS FROM GRANT OF PATENT; EFFECT OF APPROVAL OF SALE TEN YEARS AFTER BY THE SECRETARY OF AGRICULTURE AND NATURAL RESOURCES.—The sale of a portion of a tract of land covered by homestead patent before the expiration

of the period of five years from the date of the issuance of the patent is null and void it being in contravention of section 118 of Commonwealth Act No. 141. The express stipulation in the deed that the sale was subject to the approval of the Secretary of Agriculture and Natural Resources, who in fact approved it, ten years after the sale, cannot have the effect of validating it for the reason that such approval does not have any valid curative effect. The approval is a mere formality to test the validity, on constitutional grounds, of sales effected after five years but before the expiration of the period of 25 years, the absence of which will not render the transaction null and void.

2. ID.; ID.; ID.; SALE OF PROPERTY FOR EDUCATIONAL AND CHARITABLE PURPOSES; SECTION 121, COMMONWEALTH ACT NO. 141 SUBJECT TO SECTION 118.—Section 121 of Commonwealth Act No. 141, which grants a corporation, association or partnership to acquire homestead for educational and charitable purposes, should be interpreted as a mere authority granted to such corporation, association or partnership to acquire a portion of the public domain and not as an unbridled license to acquire homesteads without restriction for such would be giving an advantage to an entity over an individual which finds no legal justification. This authority should be interpreted as subject to the condition prescribed in section 118, namely, that the acquisition should be after the period of five years from the date of the issuance of the patent.

3. ID.; ID.; PARTIES "IN PARI DELICTO"; EFFECT OF VOID SALE; EXCEPTIONS.—Where the parties to a sale of a portion of the public domain covered by homestead patent have been proven to be guilty of having effected the transaction with knowledge of the cause of its invalidity, the sale is null and void and shall cause the reversion of the property to the State. This principle, however, recognizes certain exceptions as where its enforcement or application will run counter to an avowed fundamental policy of public interest. Where the subject of the transaction is a piece of public land, an heir should not be prevented from reacquiring it because it was given by law to her family for her home and cultivation and this is the policy on which the homestead law is predicated.

4. ID.; ID.; ID.; ID.; ACTIONS; PROPER PARTY TO INSTITUTE ACTION FOR THE REVERSION OF PROPERTY TO STATE.—While the Government does not take steps to assert its title to the homestead, the proper party to institute an action for the reversion of the property subject of a void sale, appellants should not be allowed to remain in it because their right to its possession is no better than that of appellee.

APPEAL from a judgment of the Court of First Instance of Cotabato. Sarenas, *J.*

The facts are stated in the opinion of the court.

Manglapus & Gopengco for defendants and appellants.
Clemente M. Aliño for plaintiff and appellee.

BAUTISTA ANGELO, *J.:*

On December 9, 1938, a homestead patent covering a tract of land situated in the municipality of Midsayap, Province of Cotabato, was granted to Julio Sarabillo and

on March 17, 1939, Original Certificate of Title No. RP–269 (1674) was issued in his favor.

On December 31, 1940, Julio Sarabillo sold two hectares of said land to the Roman Catholic Church of Midsayap for the sum of ₱800 to be dedicated to educational and charitable purposes. It was expressly agreed upon that the sale was subject to the approval of the Secretary of Agriculture and Natural Resources.

In December, 1947, a request for said approval was submitted in behalf of the Roman Catholic Church by Rev. Fr. Gerard Mongeau stating therein that the land would be used solely for educational and charitable purposes. The sale was approved on March 26, 1949, and on March 29, 1950, the deed of sale was registered in the Office of the Register of Deeds for the Province of Cotabato. No new title was issued in favor of the Roman Catholic Church although the deed was annotated on the back of the title issued to the homesteader.

In the meantime, Julio Sarabillo died and intestate proceedings were instituted for the settlement of his estate and Catalina de los Santos was appointed administratrix of the estate. And having found in the course of her administration that the sale of the land to the Roman Catholic Church was made in violation of section 118 of Commonwealth Act No. 141, the administratrix instituted the present action in the Court of First Instance of Cotabato praying that the sale be declared null and void and of no legal effect.

In their answer defendants claim that the sale is legal and valid it having been executed for educational and charitable purposes and approved by the Secretary of Agriculture and Natural Resources. They further claim that, even if it be declared null and void, its immediate effect would be not the return of the land to appellee but the reversion of the property to the State as ordained by law. Defendants also set up as a defense the doctrine of *pari delicto*.

As a preliminary step, the court, upon petition of counsel for defendants, directed the clerk of court, assisted by a representative of both parties, to appraise the value of the improvements existing on the controverted land and to submit to the court a report of his findings. This was done, the clerk of court reporting that the value of the improvements was ₱601.

After the parties had submitted the case on the pleadings, in addition to the report of the clerk of court as to the value of the improvements existing on the land, the court rendered decision declaring the sale null and void and ordering the plaintiff to reimburse to the defendants the sum of ₱800 which was paid as purchase price, plus

the additional sum of ₱601 as value of the improvements, both sums to bear interest at 6 per cent per annum from the date of the complaint, and ordering defendants to vacate the land in question. Dissatisfied with this decision, the case was taken to the Court of Appeals but it was later certified to this Court on the ground that the appeal merely involves questions of law.

It appears that the patent covering the tract of land which includes the portion now disputed in this appeal was issued to the late Julio Sarabillo on December 9, 1938, and the sale of the portion of two hectares to the Roman Catholic Church took place on December 31, 1940. This shows that the sale was made before the expiration of the period of five years from the date of the issuance of the patent and as such is null and void it being in contravention of section 118 of Commonwealth Act No. 141. The fact that it was expressly stipulated in the deed of sale that it was subject to the approval of the Secretary of Agriculture and Natural Resources and the approval was sought and obtained on March 26, 1949, or more than ten years after the date of the issuance of the patent, or the fact that the deed of sale was registered in the Office of the Register of Deeds only on March 29, 1950 and was annotated on the back of the title on that date, cannot have the effect of validating the sale for the reason that the approval of the Secretary of Agriculture and Natural Resources does not have any valid curative effect. That approval is merely a formality which the law requires if the sale is effected after the term of five years but before the expiration of a period of 25 years for the purpose of testing the validity of the sale on constitutional grounds. But, as was ruled by this Court, the absence of such formality will not render the transaction null and void (Evangelista *vs.* Montano, G. R. No. L–5567). What is important is the period within which the sale is executed. The provision of the law which prohibits the sale or encumbrance of the homestead within five years after the grant of the patent is mandatory. This cannot be obviated even if official approval is granted beyond the expiration of that period, because the purpose of the law is to promote a definite public policy, which is "to preserve and keep in the family of the homesteader that portion of public land which the State has gratuitously given to him." [Pascua *vs.* Talens, 45 Off. Gaz., No. 9, (Supplement) 413.]

The claim that the sale can be validated because it was made with the avowed aim that the property would be dedicated solely to educational and charitable purposes is likewise unmeritorious even considering the law invoked by counsel for appellants in favor of its validity. It is

true that under section 121, Commonwealth Act No. 141, a corporation, association, or partnership may acquire any land granted as homestead if the sale is done with the consent of the grantee and the approval of the Secretary of Agriculture and Natural Resources and is solely for commercial, industrial, educational, religious, or charitable purposes, or for a right of way, and apparently there is no limitation therein as to the time within which such acquisition may be made. But this provision should be interpreted as a mere authority granted to a corporation, association or partnership to acquire a portion of the public land and not as an unbridled license to acquire without restriction for such would be giving an advantage to an entity over an individual which finds no legal justification. It is our opinion that the authority granted by section 121 should be interpreted as subject to the condition prescribed in section 118, namely, that the acquisition should be after the period of five years from the date of the issuance of the patent.

But appellants now contend that even if it be declared that the sale made to them by the homesteader is null and void yet its immediate effect would be not the return of the land to appellee but rather its reversion to the State wherein the Government is the interested party. (Section 124 of the Public Land Act). Appellants further claim that the present action cannot be maintained by the appellee under the principle of *pari delicto*.

The principles thus invoked by appellants are correct and cannot be disputed. They are recognized not only by our law but by our jurisprudence. Section 124 of the Public Land Act indeed provides that any acquisition, conveyance or transfer executed in violation of any of its provisions shall be null and void and shall produce the effect of annulling and cancelling the grant or patent and cause the reversion of the property to the State, and the principle of *pari delicto* has been applied by this Court in a number of cases wherein the parties to a transaction have proven to be guilty of having effected the transaction with knowledge of the cause of its invalidity. (Bough & Bough *vs.* Cantiveros & Hanopol, 40 Phil., 210, 216; Rellosa *vs.* Gaw Chee Hun, G. R. No. L–1411; Trinidad Gonzaga de Cabauatan *vs.* Uy Hoo, et al., G. R. No. L–2207; Caoile *vs.* Yu Chiao Peng, G. R. No. L–4068; Talento, et al. *vs.* Makiki, et al., G. R. No. L–3529.) But we doubt if these principles can now be invoked considering the philosophy and the policy behind the approval of the Public Land Act. The principle underlying *pari delicto* as known here and in the United States is not absolute in its application. It recognizes certain exceptions one of them being when its enforcement or application runs counter to an avowed fundamental policy or to public interest. As stated by us

in the Rellosa case, "This doctrine is subject to one important limitation, namely, 'whenever public policy is considered advanced by allowing either party to sue for relief against the transaction." (Rellosa *vs.* Gaw Chee Hun, G. R. No. L–1411.)

The case under consideration comes within the exception above adverted to. Here appellee desires to nullify a transaction which was done in violation of the law. Ordinarily the principle of *pari delicto* would apply to her because her predecessor-in-interest has carried out the sale with the presumed knowledge of its illegality (8 Manresa 4th ed., pp. 717–718), but because the subject of the transaction is a piece of public land, public policy requires that she, as heir, be not prevented from re-acquiring it because it was given by law to her family for her home and cultivation. This is the policy on which our homestead law is predicated (Pascua *vs.* Talens, *supra*). This right cannot be waived. "It is not within the competence of any citizen to barter away what public policy by law seeks to preserve" (Gonzalo Puyat & Sons, Inc. *vs.* Pantaleon de los Ama, et al., 74 Phil., 3). We are, therefore, constrained to hold that appellee can maintain the present action it being in furtherance of this fundamental aim of our homestead law.

As regards the contention that because the immediate effect of the nullification of the sale is the reversion of the property to the State appellee is not the proper party to institute it but the State itself, that is a point which we do not have, and do not propose, to decide. That is a matter between the State and the Grantee of the homestead, or his heirs. What is important to consider now is who of the parties is the better entitled to the possession of the land while the government does not take steps to assert its title to the homestead. Upon annulment of the sale, the purchaser's claim is reduced to the purchase price and its interest. As against the vendor or his heirs, the purchaser is no more entitled to keep the land than any intruder. Such is the situation of the appellants. Their right to remain in possession of the land is no better than that of appellee and, therefore, they should not be allowed to remain in it to the prejudice of appellee during and until the government takes steps toward its reversion to the State. (See Castro *vs.* Orpiano, G. R. No. L–4094, November 29, 1951.)

Wherefore, the decision appealed from is affirmed, without pronouncement as to costs.

Parás, C. J., Pablo, Bengzon, Montemayor, Jugo and *Labrador, JJ.*, concur.

Padilla, J., concurs in the result.

Judgment affirmed.

[No. L-5685. February 25, 1954]

IRENEO MIRAFUENTES, ET AL., plaintiffs and appellees, *vs.* VICTORIO SABELLANO, CRISTINO G. ABASOLO and TEOFILO M. PEREYRA, defendants and appellants.

APPEALS; SUPERSEDEAS BOND.—Under section 2, Rule 39, of the Rules of Court, execution issued before the expiration of the time to appeal may be stayed upon the approval by the court of a sufficient supersedeas bond filed by the appellant, conditioned for the performance of the judgment or order appealed from in case it be affirmed wholly or in part. Where the bond executed and filed pursuant to this reglementary provision was conditioned for the payment by the appellant of any sum which may be due by reason of the affirmance of the decision, it clearly means that the measure of the liability was the appealed decision. If the decision of the Court of First Instance, which is upheld by the Court of Appeals and did not award in favor of the appellee any damages or costs, is already executed, there remains nothing to be paid by the appellant and therefore by the sureties.

APPEAL from a judgment of the Court of First Instance of Misamis Occidental. De Leon, *J.*

The facts are stated in the opinion of the court.

Cristino G. Abasolo, Valeriano S. Kaamiño & Abelardo P. Cecilio for defendants and appellants.

Del Rosario & Del Rosario and *Angel Abinales* for plaintiffs and appellees.

PARÁS, *C. J.:*

In civil case No. 817 of the Court of First Instance of Misamis Occidental, wherein Ireneo, Sebastian, Timoteo and Zacarias Mirafuentes were the plaintiffs, and Victorio Sabellano was the defendant, a decision was rendered declaring that the plaintiffs were "entitled to redeem the land in question by paying to the defendant the sum of ₱1,000 in genuine currency" and ordering the defendant, upon payment by the plaintiffs of the amount of ₱1,000, "to execute a deed of resale of the land in question to the plaintiffs without special pronouncement as to damages and costs." The defendant appealed, and in order to prevent immediate execution of the decision, he filed a supersedeas bond for ₱6,000, with Teofilo Pereyra and Cristino G. Abasolo as sureties, the condition being that "if the said defendant Victorio Sabellano shall well and truly pay or cause to be paid any and all sum or sums which may be or become due by reason of the affirmance of the judgment hereinbefore mentioned, then this undertaking shall be and become of no further force nor effect; otherwise, the same shall continue in full force and effect and be subject to enforcement in the manner provided by law." In due time the Court of Appeals affirmed *in toto* the decision of the Court of First Instance of Misamis Occidental.

On September 2, 1949, the plaintiffs filed in the Court of First Instance of Misamis Occidental against Victorio Sabellano, Crisitino G. Abasolo and Teofilo Pereyra a complaint for the recovery of damages in the sum of ₱6,000, for the use and occupation by the defendant Sabellano to the land litigated in civil case No. 817. After hearing, the court rendered a decision sentencing the defendants, jointly and severally; to pay to the plaintiffs the sum of ₱2,000, with legal interest from the date of the filing of the complaint, but without costs. The court ruled that the supersedeas bond filed by the defendants in civil case No. 817 is answerable for said damages. From this decision the defendants have appealed.

In our opinion, the appellants are not liable. Under section 2, Rule 39, of the Rules of Court, execution issued before the expiration of the time to appeal may be stayed upon the approval by the court of a sufficient supersedeas bond filed by the appellant, conditioned for the performance of the judgment or order appealed from in case it be affirmed wholly or in part. The bond here in question, undoubtedly executed and filed pursuant to this reglamentary provision was conditioned for the payment by the defendant Victorio Sabellano of any sum which may be due by reason of the affirmance of the decision; and this clearly meant that the measure of the liability was the appealed decision if it should be affirmed. Since the decision of the Court of First Instance in civil case No. 817, which was upheld by the Court of Appeals, did not award in favor of the plaintiffs any damages or costs, and since it is now admitted that said decision had already been executed, there remained nothing to be paid by the defendant Sabellano and therefore by this sureties, the defendants Abasolo and Pereyra. This result is in consonance with section 3 of the Rule 39 which provides that the supersedeas bond "may be executed on motion before the trial court after the case is remanded to it by the appellate court," thereby assuming that liability under the bond would arise from the appealed judgment in the same case in which it was filed.

There is no merit in appellees' contention that the bond is not entirely judicial, but contractual. The wordings do not expressly make the defendants liable for damages, apart from the adjudication recited in the decision in civil case No. 817.

Wherefore, the appealed decision is reversed and the defendants absolved from the complaint, without costs. So ordered.

Pablo, Bengzon, Padilla, Montemayor, Reyes, Jugo, Bautista Angelo, Labrador, Concepcion, and *Diokno, JJ.*, concur.

Judgment reversed.

[No. L-6272. Febrero 22, 1954]

TOMAS BATA LIANÇO, *alias* TOMAS BATA, *alias* TOMAS LU, *alias* LU HUI, recurrente, *contra* THE DEPORTATION BOARD, recurrido.

1. EXTRANJEROS; DEPORTACIÓN; JURISDICCIÓN DE LA JUNTA DE DEPORTACIÓN.—Aunque es cierto que la jurisdicción de la Junta de Deportación se limita a casos de deportación de extranjeros, no basta sin embargo que un extranjero sujeto a deportación alegue ciudadanía filipina para que aquella pierda en el acto jurisdicción. No es cierto que el extranjero tiene que ser *admitidamente* extranjero para que la Junta adquiera o retenga jurisdicción en el caso. No es cierto que los tribunales son los únicos llamados a ver y fallar la cuestión de la ciudadanía, porque esta firmamente bien decidido hace much tiempo lo contrario. La Junta tiene en primer término que ver y decidir sobre el hecho que afecta a su propia jurisdicción. Invocado ese deber de la Junta por el mismo extranjero que se trata de deportar, el no puede quejarse que ésta decida la cuestión según su leal saber y entender. Resuelto por la Junta que tiene jurisdicción, es obvio que debe proseguir con el caso hasta su terminación. Si la Junta halla infundados los cargos de indeseabilidad del extranjero, el caso habrá terminado totalmente, pero si le halla indeseable, puede apelar contra el fallo, y si la apelación fracasa, entonces sera el tiempo de considerar si demostrando causa razonable debe haber un juicio ulterior sobre la ciudadanía filipina que alega mediante *habeas corpus*.
2. ID.; ID.; CIUDADANIA FILIPINA.—El extranjero que se trata de deportar alega que su ciudadanía filipina esta sostenida por un certificado de nacimiento y por un pasaporte. El pasaporte no ha sido presentado ante la junta de Deportación. Todo lo que consta es una certificación del Comisionado de Inmigración de que obra en sus archivos un pasaporte filipino No. 3139 expedido en Manila el 17 de Abril de 1947 a favor de un Tomas Bata, de *Cotabato*, Cotabato. La certificación se ha librado el 21 de Noviembre de 1952 a petición del abogado del extranjero que se trata de deportar. El certificado de bautismo es de un Tomas Bata nacido en *Tabaco*, Albay, el 7 de Marzo de 1910, siendo su madre Segunda B. Sra. y de P. N. C." (probablemente respondiendo a Padre No Conocido). No da otros datos. Estos documentos no establecen necesariamente la ciudadanía filipina de dicho extranjero, ni siquiera su identidad con la persona o personas alli mencionadas. Juntos y separadamente, los documentos no son bastantes para obligar a la Junta a concluir que dicho extranjero es ciudadano filipino. En un caso semejante se dijo que ni una negativa de dar por ciertas unas declaraciones hechas bajo juramento contra las cuales no se han presentado testimonios derogatorios o contrarios, es motivo bastante para atacar de viciosa una actuación administrativa.
3. ID.; ID.; EL RECURRENTE DEBE AGOTAR TODOS LOS RECURSOS ADMINISTRATIVOS ANTES DE ACUDIR AL TRIBUNAL SUPREMO.—Salvo que la Junta de Deportación denegó su moción de sobreseimiento en que alegaba ser ciudadano filipino y que la Junta procederá a conocer de los cargos, el extranjero no alega que se le ha privado de oportunidad de probar su ciudadanía, o de tener un juicio imparcial, o que se ha cometido abuso de discreción, o algún acto ilegal o impropio, o algún importante

error de derecho. Estando sometido a un procedimiento administrativo extranjero debe de agotar los recursos que alli tiene antes de *habeas corpus* de los tribunales de justicia.

DIOKNO, *M.:*

El recurrente Tomas Bata Lianco, *alias* Tomas Bata, *alias* Tomas Lu, *alias* Lu Hui San pide que este Tribunal ordene a la recurrida Junta de Deportación desista de continuar conociendo de los cargos formulados contra él para su deportación en el caso No. R–442 de dicha Junta, porque dicha Junta recurrida denegó su moción de sobreseimiento en que alega que es ciudadano filipino, con cuya alegación el recurrente contiende que la Junta recurrida ha perdido toda jurisdicción sobre el caso. El recurrente alega que su ciudadanía está sostenida por un certificado de nacimiento y un pasaporte. En los cargos contra el recurrente se alega que este es un súbdito de un pais extranjero, o más exactamente un ciudadano de China, que es un activo comunista y que ha introducido clandestinamente 54 chinos precedentes de Hongkong hacia el 15 de Junio de 1949, por la noche, en Cañacao, Cavite, aparte de otras actividades que igualmente le hacen extranjero indeseable.

El recurso es improcedente por las siguientes razones:

Primera. Aunque es cierto que la jurisdicción de la Junta de Deportación se limita a casos de deportación de extranjeros, no basta sin embargo que el recurrente alegue ciudadanía filipina para que aquella pierda en el acto la jurisdicción que tenía sobre su caso de deportación. No es cierto que el recurrente tiene que ser *admitidamente* extranjero para que la Junta recurrida adquiera o retenga jurisdicción en el caso. El recurrente pretende que los tribunales son los únicos llamados a ver y fallar la cuesción de la ciudadanía, pero está firmemente bien decidido hace mucho tiempo lo contrario. La Junta tiene en primer término que ver y decidir sobre el hecho que afecta a su propia jurisdicción. Invocado ese deber de la Junta por el propio recurrente, él no puede quejarse que ésta decida la cuestión, según su leal saber y entender. Resuelto por la Junta que tiene jurisdicción, es obvio que debe proseguir con el caso hasta su terminación. Si la Junta halla infundados los cargos de indeseabilidad del recurrente, el caso habrá terminado totalmente, pero si le halla indeseable, puede apelar contra el fallo, y si la apelación fracasa, entonces será el tiempo de considerar si demostrando causa razonable debe haber un juicio ulterior sobre la ciudadanía filipina que alega mediante *habeas corpus.*

Es una de los necesidades de la administración de justicia que aun las cuestiones fundamentales se resuelvan de

manera ordenada, a pesar de posibles inconveniencias y dilaciones transitorias. El Departamento Legislativo ha prescrito que haya investigación sobre cada caso de deportación y antes de que ésta se lleve a efecto. Si habiendo tenido justa oportunidad de demostrar su ciudadania filipina durante esa investigación—y el recurrente no se queja que no la haya tenido, o que se le haya privado de una imparcial audiencia—ha optado por no aprovecharla, esa sería una razón adicional en contra de su recurso.

Segunda. El recurrente alega que su ciudadania filipina está sostenida por un certificado de nacimiento y por un pasaporte.

El pasaporte no ha sido presentado aquí, ni aparece que haya sido presentado ante la Junta recurrida. Todo lo que aquí consta es una certificación del Comisionado de Inmigración de que tiene en sus archivos un pasaporte filipino No. 3139 expedido en Manila el 17 de Abril de 1947 a favor de un Tomas Bata, de *Cotabato,* Cotabato. La certificación se ha librado el 21 de Noviembre de 1952 a petición del abogado del recurrente para su presentación a este Tribunal.

El certificado de bautismo es de un Tomas Bata nacido en *Tabaco,* Albay, el 7 de Marzo de 1910, siendo su madre Segunda B. Sra. y de P. N. C." (probablemente respondiendo a Padre No Conocido). No trae otros datos.

Estos documentos no establecen necesariamente la ciudadania filipina del recurrente, ni siquiera su identidad con la persona ó personas allí mencionadas. Juntos y separadamente, los documentos no son bastantes para obligar a la Junta recurrida a concluir que el recurrente es ciudadano filipino.

En un caso semejante se dijo que ni aun la negativa de dar por ciertas unas declaraciones hechas bajo juramento contra las cuales no se han presentado testimonios derogatorios o contrarios, es motivo bastante para atacar de viciosa una actuación administrativa.

Tercera. Estando sometido a un procedimiento administrativo, el recurrente no ha agotado los recursos que allí tiene. Salvo que la Junta recurrida denegó su moción de sobreseimiento en que alegaba ser ciudadano filipino y que la Junta procederá a conocer de los cargos, el recurrente no alega que se le ha privado de oportunidad de probar su ciudadanía o de tener un juicio imparcial o que se ha cometido abuso de discreción, o algún acto ilegal o impropio, o algún importante error de derecho.

Véanse, entre otras autoridades, Código Administrativo Revisado, Art. 69; Orden Ejecutiva No. 398, Enero 5, 1951, 47 Off. Gaz., p. 7; Reglamento de los Tribunales, Regla 67, Art. 2; Laurencio *vs.* Administrador de Aduanas (1916) 35 Jur. Fil., 35, 41–42; U. S. *vs.* Sing Tuck (1904) 194 U. S. 917, 48 L. ed. 917; Low *vs.* U. S. (1908) 208 U. S.

8, 52 L. ed. 369; Kessler *vs.* Strecker (1939) 307 U. S. 22, 83 L. ed 1084.

Se deniega el recurso, con las costas al recurrente.

Asi se ordena.

Parás, Pres., Pablo, Bengzon, Padilla, Montemayor, Reyes, Jugo, Bautista Angelo, Labrador, y *Concepcion, MM.*, estan conformes.

Se deniega al recurso.

[No. L-5253. February 22, 1954]

SANTIAGO NG, petitioner and appellant, *vs.* REPUBLIC OF THE PHILIPPINES, oppositor and appellee

1. ALIENS, NATURALIZATION; EDUCATIONAL REQUIREMENTS.—Those aliens who are otherwise qualified to become Filipino citizens who have not completed the secondary course in a school which teaches subjects equivalent to those taught in a government high school are not exempted by section 6 of the Naturalization Law from the requirement to make a declaration of intention to become Filipino citizens one year before filing their petition for citizenship.
2. ID.; ID.; ID.; COURSE TAKEN IN RADIO SCHOOL, NOT EQUIVALENT TO THIRD AND FOURTH YEAR HIGH SCHOOL.—The course taken by the applicant in a Radio School is not equivalent to the third and fourth years of high school.

APPEAL from a judgment of the Court of First Instance of Marinduque. Ramos, *J.*

The facts are stated in the opinion of the court.

Panfilo M. Manguera for petitioner and appellant.

Solicitor General Juan R. Liwag and *Solicitor Isidro C. Borromeo* for oppositor and appellee.

JUGO, *J.:*

On October 25, 1949, Santiago Ng filed with the Court of First Instance of Marinduque a petition praying for his naturalization as a Filipino citizen.

The petition was accompanied by the affidavit of Jose Madrigal, Municipal Mayor of Boac, Marinduque, and the affidavit of Filemon Ignacio, Chief of Police of the same municipality, together with two pictures of the petitioner. However, the petition was not accompanied by the declaration of intention to apply for Philippine citizenship presented one year prior to the filing of the petition.

The notice of hearing of the petition had been posted in a conspicuous place in the Capitol Building of Marinduque and published in the newspaper *Nueva Era*, a newspaper of general circulation in said province, on October 31, November 7, and 14, 1949, and in the *Official Gazette* in October, November and December, 1949.

The petition was called for hearing on September 8, 1950, at 9:10 a. m. No opposition was filed, except that

of the Provincial Fiscal, which was presented on September 13, 1950.

At the hearing it was established that the petitioner was born on May 28, 1927, at Boac, Marinduque, Philippines, his father being Ng Kin and his mother Ching Kiat, who are still living, both citizens of the Republic of China, the petitioner, therefore, being also a citizen of said country; that the petitioner was 22 years old, single, native and resident of the municipality of Boac, Marinduque, where he had been residing continuously from the time of his birth up to the date of the hearing; that he is of good moral character and believes in the principles underlying the Philippine Constitution; that during his residence he had conducted himself in a proper and irreproachable manner both in his relations with the constituted authorities as well as with the people in the community with whom he mingled; that he has a lucrative and lawful occupation as a trained mechanic; and that he is able to read and write English and Tagalog. He has no children. He has completed the primary and elementary courses and the first and second year high school. After he finished the second year high school he stopped and entered the vocational school known as the National Radio School and Institute of Technology in Manila, Philippines, which is duly recognized by the Philippine Government. He graduated from said school on May 23, 1948, obtaining a diploma.

The Court of First Instance of Marinduque denied his petition on the ground that he had not made a declaration of intention to become a Filipino citizen one year before he filed his petition.

The petitioner appealed from said decision, alleging that the trial court erred in not exempting him from the requirement of making his declaration of intention to become a Filipino citizen one year before the filing of his petition by virtue of section 6 of the Naturalization Law, as amended, which among other things, provides as follows:

> *"Persons exempt from requirement to make a declaration of intention.*—Persons born in the Philippines and have received their primary and secondary education in public schools or those recognized by the Government and not limited to any race or nationality, and those who have resided continuously in the Philippines for a period of thiry years or more before filing their application, may be naturalized without having to make a declaration of intention upon complying with the other requirements of this Act. * * *".

It is clear that he has not resided for thirty years in the Philippines. He has finished only the second year of high school.

The question is whether the course that he took in the National Radio School and Institute of Technology is

equivalent to the third and fourth year high school. The court below on this point said:

"1 The subjects given in the High School course are entirely different from those given in the vocational school; cultural training is emphasized in the first while scientific and practical training in the second;

"2 The number of unit hours required to finish the first and second year High School is much more than those required in finishing the vocational course.

"The petitioner does not have sufficient knowledge of Philippine history, government and civics.

"In view thereof, the court has come to the conclusion that the vocational course cannot be the equivalent of the third and fourth year High School course. In other words, the petitioner did not complete his secondary education as required by section 6 of the Revised Naturalization Law for exemption from filing a declaration of intention to acquire Philippine citizenship one year before an alien may file a petition for the acquisition of Philippine citizenship by naturalization."

This Court, in the case of Jesus Uy Yap *vs.* Republic of the Philippines, G. R. No. L-4270, held as follows:

"Because of petitioner's failure to file his intention to become a citizen of the Philippines, we are constrained to deny his application for naturalization. It would seem rather unfair to do this because outside of his failure to file a declaration of intention, the applicant is clearly entitled to naturalization. According to the findings of the trial court, not impugned by the Government, the applicant was born and raised in the Philippines, resided continuously here up to the time he applied for naturalization, is married to a Filipino, and is now living as a peaceful resident in this country. Besides possessing all the qualifications required of an applicant for naturalization, the evidence shows that during the last war, he clearly identified himself with the Filipinos, even helping in the underground resistance movement. However, the law must be complied with."

The following authorities may be cited:

"* * * It is not within the province of the courts to make bargains with applicants for naturalization. The courts have no choice but to require that there be a full compliance with the statutory provisions" (2 Am. Jr., 577).

"An alien who seeks political rights as a member of this nation can rightfully obtain them only upon terms and conditions specified by Congress. Courts are without authority to sanction changes or modifications; their duty is rigidly to enforce the legislative will in respect of the matters so vital to the welfare" (U. S. *vs.* Ginsberg., 243 U. S., 472; 61 L. Ed. 853; 856).

In view of the foregoing, the judgment appealed from is affirmed, with costs against the appellant.

Parás, C. J., Pablo, Bengzon, Padilla, Montemayor, Reyes, Bautista Angelo, Labrador, Concepcion, and *Diokno, JJ.,* concur.

Judgment affirmed.

RESOLUTION OF THE SUPREME COURT

[Resolution, March 18, 1954]

In the Matter of the Petitions for Admission to the Bar of Unsuccessful Candidates of 1946 to 1953; ALBINO CUNANAN ET AL., petitioners.

1. ATTORNEYS-AT-LAW; ADMISSION; RELATION TO COURT AND PUBLIC.—By its declared objective, Republic Act No. 972 is contrary to public interest because it qualifies 1,094 law graduates who confessedly had inadequate preparation for the practice of the profession, as was exactly found by this Tribunal in the aforesaid examinations. The public interest demands of the legal profession adequate preparation and efficiency, precisely more so as legal problems evolved by the times become more difficult.
2. ID.; ID.; A JUDICIAL FUNCTION.—In the judicial system from which ours has been evolved, the admission, suspension, disbarment and reinstatement of attorneys-at-law in the practice of the profession and their supervision have been indisputably a judicial function and responsibility. Because of this attribute, its continuous and zealous possession and exercise by the judicial power have been demonstrated during more than six centuries, which certainly "constitutes the most solid of titles."
3. ID.; ID.; POWER OF CONGRESS TO REPEAL, ALTER OR SUPPLEMENT RULES.—The Constitution has not conferred on Congress and this Tribunal equal responsibilities governing the admission to the practice of law. The primary power and responsibility which the Constitution recognizes, continue to reside in this court. Congress may repeal, alter and supplement the rules promulgated by this court, but the authority and responsibility over the admission, suspension, disbarment and reinstatement of attorneys-at-law and their supervision remain vested in the Supreme Court.
4. ID.; ID.; ID.; POWER OF CONGRESS AND THAT OF SUPREME COURT MAY BE HARMONIZED.—Being coordinate and independent branches the power to promulgate and enforce rules for the admission to the practice of law and the concurrent power to repeal, alter and supplement them may and should be exercised with the respect that each owes to the other, giving careful consideration to the responsibility which the nature of each department requires. These powers have existed together for centuries without diminution on each part; the harmonious delimitation being found in that the legislature may and should examine if the existing rules on the admission to the Bar respond to the demands which public interest requires of a Bar endowed with high vitrues, culture, training and responsibility. The legislature may, by means of repeal, amendment or supplemental rules, fill up any deficiency that it may find, and the judicial power, which has the inherent responsibility for a good and efficient administration of justice and the supervision of the practice of the legal profession, should consider these reforms as the minimum standards for the elevation of the profession, and see to it that with these reforms the lofty objective that is desired in the exercise of its traditional duty of admitting, suspending, dis-

barring and reinstating attorneys-at-law is realized. They are powers which, exercised within their proper constitutional limits, are not repugnant, but rather complementary to each other in attaining the establishment of a Bar that would respond to the increasing and exacting necessities of the administration of justice.

5. CONSTITUTIONAL LAW; CLASS LEGISLATION.—Republic Act No. 972 is a class legislation. There is no actual nor reasonable basis to classify unsuccessful bar candidates by years nor to exclude those of other years.
6. ID.; TITLE OF LAW MUST EMBRACE ALL ITS PROVISIONS.—Article 2 of Republic Act No. 972 is not embraced in the title of the law, contrary to what the Constitution enjoins. Being inseperable from the provisions of article 1, the entire law is void.
7. ID.; REPUBLIC ACT NO. 972, PART OF SECTION 1 DECLARED TO BE IN FORCE.—There being no unanimity in the eight Justices who constitute the majority of the court in this case, that part of article 1 of Republic Act No. 972 which refers to the examinations of 1953 to 1955 shall continue in force.

The facts are stated in the opinion of the court.

Jose M. Aruego, M. H. de Joya, Miguel R. Cornejo, and *Antonio Enrile Inton* for petitioners.

Solicitor General Juan R. Liwag for respondent.

DIOKNO, *J.:*

In recent years few controversial issues have aroused so much public interest and concern as Republic Act No. 972, popularly known as the "Bar Flunkers' Act" of 1953. Under the Rules of Court governing admission to the bar, "in order that a candidate (for admission to the Bar) may be deemed to have passed his examinations successfully, he must have obtained a general average of 75 per cent in all subjects, without falling below 50 per cent in any subject." (Rule 127, sec. 14, Rules of Court). Nevertheless, considering the varying difficulties of the different bar examinations held since 1946 and the varying degree of strictness with which the examination papers were graded, this court passed and admitted to the bar those candidates who had obtained an average of only 72 per cent in 1946, 69 per cent in 1947, 70 per cent in 1948, and 74 per cent in 1949. In 1950 to 1953, the 74 per cent was raised to 75 per cent.

Believing themselves as fully qualified to practice law as those reconsidered and passed by this court, and feeling conscious of having been discriminated against (See Explanatory Note to R. A. No. 972), unsuccessful candidates who obtained averages of a few percentage lower than those admitted to the Bar agitated in Congress for, and secured in 1951 the passage of Senate Bill No. 12 which, among others, reduced the passing general average in bar examinations to 70 per cent effective since 1946. The President requested the views of this court on the bill. Complying with that request, seven members of the court subscribed

to and submitted written comments adverse thereto, and shortly thereafter the President vetoed it. Congress did not override the veto. Instead, it approved Senate Bill No. 371, embodying substantially the provisions of the vetoed bill. Although the members of this court reiterated their unfavorable views on the matter, the President allowed the bill to become a law on June 21, 1953 without his signature. The law, which incidentally was enacted in an election year, reads in full as follows:

REPUBLIC ACT NO. 972

AN ACT TO FIX THE PASSING MARKS FOR BAR EXAMINATIONS FROM NINETEEN HUNDRED AND FORTY-SIX UP TO AND INCLUDING NINETEEN HUNDRED AND FIFTY-FIVE.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Notwithstanding the provisions of section fourteen, Rule numbered one hundred twenty-seven of the Rules of Court, any bar candidate who obtained a general average of seventy per cent in any bar examinations after July fourth, nineteen hundred and forty-six up to the August nineteen hundred and fifty-one bar examinations; seventy-one per cent in the nineteen hundred and fifty-two bar examinations; seventy-two per cent in the nineteen hundred and fifty-three bar examinations; seven-three per cent in the nineteen hundred and fifty-four bar examinations; seventy-four per cent in the nineteen hundred and fifty-five bar examinations without a candidate obtaining a grade below fifty per cent in any subject, shall be allowed to take and subscribe the corresponding oath of office as member of the Philippine Bar: *Provided, however,* That for the purpose of this Act, any exact one-half or more of a fraction, shall be considered as one and included as part of the next whole number.

SEC. 2. Any bar candidate who obtained a grade of seventy-five per cent in any subject in any bar examination after July fourth, nineteen hundred and forty-six shall be deemed to have passed in such subject or subjects and such grade or grades shall be included in computing the passing general average that said candidate may obtain in any subsequent examinations that he may take.

SEC. 3. This Act shall take effect upon its approval.

Enacted on June 21, 1953, without the Executive approval.

After its approval, many of the unsuccessful postwar candidates filed petitions for admission to the bar invoking its provisions, while others whose motions for the revision of their examination papers were still pending also invoked the aforesaid law as an additional ground for admission. There are also others who have sought simply the reconsideration of their grades without, however, invoking the law in question. To avoid injustice to individual petitioners, the court first reviewed the motions for reconsideration, irrespective of whether or not they had invoked Republic Act No. 972. Unfortunately, the court has found no reason to revise their grades. If they are to be admitted to the bar, it must be pursuant to Republic Act No. 972 which, if declared valid, should be applied equally to all concerned

whether they have filed petitions or not. A complete list of the petitioners, properly classified, affected by this decision, as well as a more detailed account of the history of Republic Act No. 972, are appended to this decision as Annexes I and II. And to realize more readily the effects of the law, the following statistical data are set forth:

(1) The unsuccessful bar candidates who are to be benefited by section 1 of Republic Act No. 972 total 1,168, classified as follows:

Year of examinations	Total of Candidates who took the examinations	Total of those who fails	Candiates benefited by Republic Act No. 972
1946 (August)	206	121	18
1946 (November)	477	228	43
1947	749	340	0
1948	899	409	11
1949	1,218	532	164
1950	1,316	893	26
1951	2,068	879	196
1952	2,738	1,033	426
1953	2,555	986	284
Totals	12,230	5,421	1,168

Of the aforesaid 1,168 candidates, 92 have passed in subsequent examination, and only 586 have filed either motions for admission to the bar pursuant to said Republic Act, or mere motions for reconsideration.

(2) In addition, some other 10 unsuccessful candidates are to be benefited by section 2 of said Republic Act. These candidates had each taken from two to five different examinations, but failed to obtain a passing average in any of them. Consolidating, however, their highest grades in different subjects in previous examinations, with their latest marks, they would be sufficient to reach the passing average as provided for by Republic Act 972.

(3) The total number of candidates to be benefited by this Republic Act is therefore 1,094, of which only 604 have filed petitions. Of these 604 petitioners, 33 who failed in 1946 to 1951 had individually presented motions for reconsideration which were denied, while 125 unsuccessful candidates of 1952, and 56 of 1953, had presented similar motions, which are still pending because they could be favorably affected by Republic Act No. 972,—although as has been already stated, this tribunal finds no sufficient reasons to reconsider their grades.

UNCONSTITUTIONALITY OF REPUBLIC ACT NO. 972

Having been called upon to enforce a law of far-reaching effects on the practice of the legal profession and the administration of justice, and because some doubts have been expressed as to its validity, the court set the hearing of the aforementioned petitions for admission on the sole question of whether or not Republic Act No. 972 is constitutional.

We have been enlightened in the study of this question by the brilliant assistance of the members of the bar who have amply argued, orally and in writing, on the various aspects in which the question may be gleaned. The valuable studies of Messrs. E. Voltaire Garcia, Vicente J. Francisco, Vicente Pelaez and Buenaventura Evangelista, in favor of the validity of the law, and of the U. P. Women Lawyers' Circle, the Solicitor General, Messrs. Arturo A. Alafriz, Enrique M. Fernando, Vicente Abad Santos, Carlos A. Barrios, Vicente del Rosario, Juan de Blancaflor, Mamerto V. Gonzales and Roman Ozaeta, against it, aside from the memoranda of counsel for petitioners, Messrs. Jose M. Aruego, M. H. de Joya, Miguel R. Cornejo and Antonio Enrile Inton, and of petitioners Cabrera, Macasaet and Galema, themselves, has greatly helped us in this task. The legal researchers of the court have exhausted almost all Philippine and American jurisprudence on the matter. The question has been the object of intense deliberation for a long time by the Tribunal, and finally, after the voting, the preparation of the majority opinion was assigned to a new member in order to place it as humanly as possible above all suspicion of prejudice or partiality.

Republic Act No. 972 has for its object, according to its author, to admit to the Bar, those candidates who suffered from insufficiency of reading materials and inadequate preparation. Quoting a portion of the Explanatory Note of the proposed bill, its author Honorable Senator Pablo Angeles David stated:

> "The reason for relaxing the standard 75 per cent passing grade is the tremendous handicap which students during the years immediately after the Japanese occupation has to overcome such as the insufficiency of reading materials and the inadequacy of the preparation of students who took up law soon after the liberation."

Of the 9,675 candidates who took the examinations from 1946 to 1952, 5,236 passed. And now it is claimed that in addition 604 candidates be admitted (which in reality total 1,094), because they suffered from "insufficiency of reading materials" and of "inadequacy of preparation".

By its declared objective, the law is contrary to public interest because it qualifies 1,094 law graduates who confessedly had inadequate preparation for the practice of the profession, as was exactly found by this Tribunal in the aforesaid examinations. The public interest demands of legal profession adequate preparation and efficiency, precisely more so as legal problem evolved by the times become more difficult. An adequate legal preparation is one of the vital requisites for the practice of law that should be developed constantly and maintained firmly. To the legal profession is entrusted the protection of property, life, honor and civil liberties. To approve officially of those inadequately prepared individuals to dedicate themselves to

such a delicate mission is to create a serious social danger. Moreover, the statement that there was an insufficiency of legal reading materials is grossly exaggerated. There were abundant materials. Decisions of this court alone in mimeographed copies were made available to the public during those years and private enterprises had also published them in monthly magazines and annual digests. The *Official Gazette* has been published continuously. Books and magazines published abroad have entered without restriction since 1945. Many law books, some even with revised and enlarged editions have been printed locally during those periods. A new set of Philippine Reports began to be published since 1946, which continued to be supplemented by the addition of new volumes. Those are facts of public knowledge.

Notwithstanding all these, if the law in question is valid, it has to be enforced.

The question is not new in its fundamental aspect or from the point of view of applicable principles, but the resolution of the question would have been easier had an identical case of similar background been picked out from the jurisprudence we daily consult. Is there any precedent in the long Anglo-Saxon legal history, from which has been directly derived the judicial system established here with its lofty ideals by the Congress of the United States, and which we have preserved and attempted to improve, or in our contemporaneous juridical history of more than half a century? From the citations of those defending the law, we can not find a case in which the validity of a similar law had been sustained, while those against its validity cite, among others, the cases of Day (In re Day, 54 NE 646), of Cannon (State *vs.* Cannon, 240 NW, 441), the opinion of the Supreme Court of Massachusetts in 1932 (81 ALR 1061), of Guariña (24 Phil., 37), aside from the opinion of the President which is expressed in his vote of the original bill and which the proponent of the contested law respects.

This law has no precedent in its favor. When similar laws in other countries had been promulgated, the judiciary immediately declared them without force or effect. It is not within our power to offer a precedent to uphold the disputed law.

To be exact, we ought to state here that we have examined carefully the case that has been cited to us as a favorable precedent of the law—that of Cooper (22 NY, 81), where the Court of Appeals of New York revoked the decision of the Supreme Court of that State, denying the petition of Cooper to be admitted to the practice of law under the provisions of a statute concerning the school of law of Columbia College promulgated on April 7, 1860, which was

declared by the Court of Appeals to be consistent with the Constitution of the state of New York.

It appears that the Constitution of New York at that time provided:

"They (*i.e.*, the judges) shall not hold any other office of public trust. All votes for either of them for any elective office except that of the Court of Appeals, given by the Legislature or the people, shall be void. They shall not exercise any power of appointment to public office. Any male citizen of the age of twenty-one years, of good moral character, and who possesses the requisite qualifications of learning and ability, shall be entitled to admission to practice in all the courts of this State." (p. 93).

According to the Court of Appeals, the object of the constitutional precept is as follows:

"Attorneys, solicitors, etc., were public officers; the power of appointing them had previously rested with the judges, and this was the principal appointing power which they possessed. The convention was evidently dissatisfied with the manner in which this power had been exercised, and with the restrictions which the judges had imposed upon admission to practice before them. The prohibitory clause in the section quoted was aimed directly at this power, and the insertion of the provision respecting the admisison of attorneys, in this particular section of the Constitution, evidently arose from its connection with the object of this prohibitory clause. There is nothing indicative of confidence in the courts or of a disposition to preserve any portion of their power over this subject, unless the Supreme Court is right in the inference it draws from the use of the word 'admission' in the action referred to. It is urged that the admission spoken of must be by the court; that to admit means to grant leave, and that the power of granting necessarily implies the power of refusing, and of course the right of determining whether the applicant possesses the requisite qualifications to entitle him to admission.

"These positions may all be conceded, without affecting the validity of the act." (p.93.)

Now, with respect to the law of April 7, 1860, the decision seems to indicate that it provided that the possession of a diploma of the school of law of Columbia College conferring the degree of Bachelor of Laws was evidence of the legal qualifications that the constitution required of applicants for admission to the Bar. The decision does not however quote the text of the law, which we cannot find in any public or accessible private library in the country.

In the case of Cooper, *supra*, to make the law consistent with the Constitution of New York, the Court of Appeals said of the object of the law:

"The motive for passing the act in question is apparent. Columbia College being an institution of established reputation, and having a law department under the charge of able professors, the students in which department were not only subjected to a formal examination by the law committee of the institution, but to a certain definite period of study before being entitled to a diploma as graduates, the Legislature evidently, and no doubt justly, considered this examination, together with the preliminary study required by the act, as fully equivalent as a test of legal requirements, to the ordinary examination

by the court; and as rendering the latter examination, to which no definite period of preliminary study was essential, unnecessary and burdensome.

"The act was obviously passed with reference to the learning and ability of the applicant, and for the mere purpose of substituting the examination by the law committee of the college for that of the court. It could have had no other object, and hence no greater scope should be given to its provisions. We cannot suppose that the Legislature designed entirely to dispense with the plain and explicit requirements of the Constitution; and the act contains nothing whatever to indicate an intention that the authorities of the college should inquire as to the age, citizenship, etc., of the students before granting a diploma. The only rational interpretation of which the act admits is, that it was intended to make the college diploma competent evidence as to the legal attainments of the applicant, and nothing else. To this extent alone it operates as a modification of preexisting statutes, and it is to be read in connection with these statutes and with the Constitution itself in order to determine the present condition of the law on the subject." (p. 89).

* * * * * * *

"The Legislature has not taken from the court its jurisdiction over the question of admission, that has simply prescribed what shall be competent evidence in certain cases upon that question." (p. 93).

From the foregoing, the complete inapplicability of the case of Cooper with that at bar may be clearly seen. Please note only the following distinctions:

(1) The law of New York does not require that any candidate of Columbia College who failed in the bar examinations be admitted to the practice of law.

(2) The law of New York, according to the very decision of Cooper, has not taken from the court its jurisdiction over the question of admission of attorney-at-law; in effect, it does not decree the admission of any lawyer.

(3) The Constitution of New York at that time and that of the Philippines are entirely different on the matter of admission to the practice of law.

In the judicial system from which ours has been evolved, the admission, suspension, disbarment and reinstatement of attorneys at law in the practice of the profession and their supervision have been indisputably a judicial function and responsibility. Because of this attribute, its continuous and zealous possession and exercise by the judicial power have been demonstrated during more than six centuries, which certainly "constitutes the most solid of titles." Even considering the power granted to Congress by our Constitution to repeal, alter and supplement the rules promulgated by this Court regarding the admission to the practice of law, to our judgment the proposition that the admission, suspension, disbarment and reinstatement of attorneys at law is a legislative function, properly belonging to Congress, is unacceptable. The function requires (1) previously established rules and principles, (2) concrete facts, whether past or present, affecting determinate individuals,

and (3) decision as to whether these facts are governed by the rules and principles; in effect, a judicial function of the highest degree. And it becomes more undisputably judicial, and not legislative, if previous judicial resolutions on the petitions of these same individuals are attempted to be revoked or modified.

We have said that in the judicial system from which ours has been derived, the act of admitting, suspending, disbarring and reinstating attorneys at law in the practice of the profession is concededly judicial. A comprehensive and conscientious study of this matter had been undertaken in the case of State *vs.* Cannon (1932) 240 NW 441, in which the validity of a legislative enactment providing that Cannon be permitted to practice before the courts was discussed. From the text of this decision we quote the following paragraphs:

"This statute presents an assertion of legislative power without parallel in the history of the English speaking people so far as we have been able to ascertain. There has been much uncertainty as to the extent of the power of the Legislature to prescribe the ultimate qualifications of attorneys at law, but in England and in every state of the Union the act of admitting an attorney at law has been expressly committed to the courts, and the act of admission has always been regarded as a judicial function. This act purports to constitute Mr. Cannon an attorney at law, and in this respect it stands alone as an assertion of legislative power. (p. 444)

"No greater responsibility rests upon this court than that of preserving in form and substance the exact form of government set up by the people. (p. 444)

"Under the Constitution all legislative power is vested in a Senate and Assembly. (Section 1, art. 4.) In so far as the prescribing of qualifications for admission to the bar are legislative in character, the Legislature is acting within its constitutional authority when it sets up and prescribes such qualifications. (p. 444)

"But when the Legislature has prescribed those qualifications which in its judgment will serve the purpose of legitimate legislative solicitude, is the power of the court to impose other and further exactions and qualifications foreclosed or exhausted? (p. 444)

"Under our Constitution the judicial and legislative departments are distinct, independent, and coordinate branches of the government. Neither branch enjoys all the powers of sovereignty, but each is supreme in that branch of sovereignty which properly belongs to its department. Neither department should so act as to embarrass the other in the discharge of its respective functions. That was the scheme and thought of the people in setting upon the form of government under which we exist. State *vs.* Hastings, 10 Wis., 525; Attorney General ex rel. Bashford *vs.* Barstow, 4 Wis., 567. (p. 445)

"The judicial department of government is responsible for the plane upon which the administration of justice is maintained. Its responsibility in this respect is exclusive. By committing a portion of the powers of sovereignty to the judicial department of our state government, under a scheme which it was supposed rendered it immune from embarrassment or interference by any other department of government, the courts cannot escape responsibility for the manner in which the powers of sovereignty thus committed to the judicial department are exercised. (p. 445)

"The relation of the bar to the courts is a peculiar and intimate relationship. The bar is an attaché of the courts. The quality of justice dispensed by the courts depends in no small degree upon the integrity of its bar. An unfaithful bar may easily bring scandal and reproach to the administration of justice and bring the courts themselves into disrepute. (p. 445)

"Through all time courts have exercised a direct and severe supervision over their bars, at least in the English speaking countries." (p. 445)

After explaining the history of the case, the Court ends thus:

"Our conclusion may be epitomized as follows: For more than six centuries prior to the adoption of our Constitution, the courts of England, concededly subordinate to Parliament since the Revolution of 1688, had exercised the right of determining who should be admitted to the practice of law, which, as was said in Matter of the Sergeants at Law, 6 Bingham's New Cases 235, 'constitutes the most solid of all titles.' If the courts and the judicial power be regarded as an entity, the power to determine who should be admitted to practice law is a constituent element of that entity. It may be difficult to isolate that element and say with assurance that it is either a part of the inherent power of the court, or an essential element of the judicial power exercised by the court, but that it is a power belonging to the judicial entity cannot be denied. Our people borrowed from England this judicial entity and made of not only a sovereign institution, but made of it a separate, independent, and coordinate branch of the government. They took this institution along with the power traditionally exercised to determine who should constitute its attorneys at law. There is no express provision in the Constitution which indicates an intent that this traditional power of the judicial department should in any manner be subject to legislative control. Perhaps the dominant thought of the framers of our constitution was to make the three great departments of government separate and independent of one another. The idea that the Legislature might embarrass the judicial department by prescribing inadequate qualifications for attorneys at law is inconsistent with the dominant purpose of making the judicial independent of the legislative department, and such a purpose should not be inferred in the absence of express constitutional provision. While the Legislature may legislate with respect to the qualifications of attorneys, its power in that respect does not rest upon any power possessed by it to deal exclusively with the subject of the qualifications of attorneys, but is incidental merely to its general and unquestioned power to protect the public interest. When it does legislate fixing a standard of qualifications required of attorneys at law in order that public interests may be protected, such qualifications constitute only a minimum standard and limit the class from which the court must make its selection. Such legislative qualifications do not constitute the ultimate qualifications beyond which the court cannot go in fixing additional qualifications deemed necessary by the course for the proper administration of judicial functions. There is no legislative power to compel courts to admit to their bars persons deemed by them unfit to exercise the prerogatives of an attorney at law." (p. 450)

"Furthermore, it is an unlawful attempt to exercise the power of appointment. It is quite likely true that the Legislature may exercise the power of appointment when it is in pursuance of a legislative functions. However, the authorities are well-nigh unanimous that the power to admit attorneys to the practice of law is a judicial func-

tion. In all of the states, except New Jersey (In re Reisch, 83 N. J. Eq. 82, 90 A. 12), so far as our investigation reveals, attorneys receive their formal license to practice law by their admission as members of the bar of the court so admitting. Cor. Jur. 572; Ex perto Secombe, 19 How. 9, 15 L. Ed. 565; Ex parte Garland, 4 Wall. 333, 18 L. Ed. 366; Randall *vs.* Brigham, 7 Wall. 52, 19 L. Ed. 285; Hanson *vs.* Grattan, 48 Kan, 843, 115 P. 646, 34 L.R.A. 519; Danforth *vs.* Egan, 23 S. D. 43, 119 N. W. 1021, 130 Am. St. Rep. 1030, 20 Ann. Cas. 413.

"The power of admitting an attorney to practice having been perpetually exercised by the courts, it having been so generally held that the act of a court in admitting an attorney to practice is the judgment of the court, and an attempt as this on the part of the Legislature to confer such right upon any one bing most exceedingly uncommon, it seems clear that the licensing of an attorney is and always has been a purely judicial function, no matter where the power to determine the qualifications may reside." (p. 451)

In that same year of 1932, the Supreme Court of Massachusetts, in answering a consultation of the Senate of that State, 180 NE 725, said:

"It is indispensable to the administration of justice and to interpretation of the laws that there be members of the bar of sufficient ability, adequate learning and sound moral character. This arises from the need of enlightened assistance to the honest, and restraining authority over the knavish, litigant. It is highly important, also, that the public be protected from incompetent and vicious practitioners, whose opportunity for doing mischief is wide. It was said by Cardoz, C.J., in People ex rel. Karlin *vs.* Culkin, 242 N. Y. 465, 470, 471, 162 N. E. 487, 489, 60 A. L. R. 851: 'Membership in the bar is a privilege burdened with conditions.' One is admitted to the bar 'for something more than private gain.' He becomes 'an officer of the court, and, like the court itself, an instrument or agency to advance the ends of justice. His cooperation with the court is due 'whenever justice would be imperiled if cooperation was withheld.' Without such attorneys at law the judicial department of government would be hampered in the performance of its duties. That has been the history of attorneys under the common law, both in this country and in England. Admission to practice as an attorney at law is almost without exception conceded to be a judicial function. Petition to that end is filed in courts, as are other proceedings invoking judicial action. Admission to the bar is accomplished and made open and notorious by a decision of the court entered upon its records. The establishment by the Constitution of the judicial department conferred authority necessary to the exercise of its powers as a co-ordinate department of government. It is an inherent power of such a department of government ultimately to determine the qualifications of those to be admitted to practice in its courts, for assisting in its work, and to protect itself in this respect from the unfit, those lacking in sufficient learning, and those not possessing good moral character. Chief Justice Taney stated succinctly and with finality in Ex parte Secombe, 19 How. 9, 13, 15 L. Ed. 565, 'It has been well settled, by the rules and practice of common-law courts, that it rests exclusively with the court to determine who is qualified to become one of its officers, as an attorney and counsellor, and for what cause he ought to be removed.'" (p. 727)

In the case of Day and others who collectively filed a petition to secure license to practice the legal profession by vir-

tue of a law of the state (In re Day, 54 NE 646), the court said in part:

"In the case of Ex parte Garland, 4 Wall, 333, 18 L. Ed. 366, the court, holding the test oath for attorneys to be unconstitutional, explained the nature of the attorney's office as follows: "They are officers of the court, admitted as such by its order, upon evidence of their possessing sufficient legal learning and fair private character. It has always been the general practice in this country to obtain this evidence by an examination of the parties. In this court the fact of the admission of such officers in the highest court of the states to which they, respectively, belong, for three years preceding their application, is regarded as sufficient evidence of the possession of the requisite legal learning, and the statement of counsel moving their admission sufficient evidence that their private and profcssional character is fair. The order of admission is the judgment of the court that the parties possess the requisite qualifications as attorneys and counsellors, and are entitled to appear as such and conduct causes therein. From its entry the parties become officers of the court, and are responsible to it for professional misconduct. They hold their office during good behavior, and can only be deprived of it for misconduct ascertained and declared by the judgment of the court after opportunity to be heard has been afforded. Ex parte Hoyfron, 7 How. (Miss. 127; Fletcher *vs.* Daingerfield, 20 Cal. 430. Their admission or their exclusion is not the exercise of a mere ministerial power. It is the exercise of judicial power, and has been so held in numerous cases. It was so held by the court of appeals of New York in the matter of the application of Cooper for admission. Re Cooper 22 N. Y. 81. 'Attorneys and Counsellors,' said that court, 'are not only officers of the court, but officers whose duties relate almost exclusively to proceedings of a judicial nature; and hence their appointment may, with propriety, be intrusted to the court, and the latter, in performing his duty, may very justly considered as engaged in the exercise of their appropriate judicial functions." (pp. 650-651).

We quote from other cases, the following pertinent portions:

"Admission to practice of law is almost without exception conceded everywhere to be the exercise of a judical function, and this opinion need not be burdened with citations on this point. Admission to practice have also been held to be the exercise of one of the inherent powers of the court."—Re Bruen, 102 Wash. 472, 172 Pac. 906.

"Admission to the practice of law is the exercise of a judicial function, and is an inherent power of the court."—A. C. Brydonjack, *vs.* State Bar of California, 281 Pac. 1018; See Annotation on Power of Legislature respecting admission to bar, 66 A. L. R. 1512.

On this matter there is certainly a clear distinction between the functions of the judicial and legislative departments of the government.

"The distinction between the functions of the legislative and the judicial departments is that it is the province of the legislature to establish rules that shall regulate and govern in matters of transactions occurring subsequent to the legislative action, while the judiciary determines rights and obligations with reference to transactions that are past or conditions that exist at the time of the exercise of judicial power, and the distinction is a vital one and not subject to alteration or change either by legislative action or by judicial decrees.

"The judiciary cannot consent that its province shall be invaded by either of the other departments of the government."—16 C. J. S., Constitutional Law, p. 229.

"If the legislature cannot thus indirectly control the action of the courts, by requiring of them construction of the law according to its own views, it is very plain it cannot do so directly, by settling aside their judgments, compelling them to grant new trials, ordering the discharge of offenders, or directing what particular steps shall be taken in the progress of a judicial inquiry."—Cooley's Constitutional Limitations, 192.

In decreeing that bar candidates who obtained in the bar examinations of 1946 to 1952, a general average of 70 per cent without falling below 50 per cent in any subject, be admitted in mass to the practice of law, the disputed law is not a legislation; it is a judgment—a judgment revoking those promulgated by this Court during the aforecited year affecting the bar candidates concerned; and although this Court certainly can revoke these judgments even now, for justifiable reasons, it is no less certain that only this Court, and not the legislative nor executive department, that may do so. Any attempt on the part of any of these departments would be a clear usurpation of its functions, as is the case with the law in question.

That the Constitution has conferred on Congress the power to repeal, alter or supplement the rules promulgated by this Tribunal, concerning the admission to the practice of law, is no valid argument. Section 13, article VIII of the Constitution provides:

"Section 13. The Supreme Court shall have the power to promulgate rules concerning pleading, practice, and procedure in all courts, and the admission to the practice of law. Said rules shall be uniform for all courts of the same grade and shall not diminish, increase or modify substantive rights. The existing laws on pleading, practice, and procedure are hereby repealed as statutes, and are declared Rules of Courts, subject to the power of the Supreme Court to alter and modify the same. The Congress shall have the power to repeal, alter, or supplement the rules concerning pleading, practice, and procedure, and the admission to the practice of law in the Philippines."—Constitution of the Philippines, Art. VIII, sec. 13.

It will be noted that the Constitution has not conferred on Congress and this Tribunal equal responsibilities concerning the admission to the practice of law. The primary power and responsibility which the Constitution recognizes, continue to reside in this Court. Had Congress found that this Court has not promulgated any rule on the matter, it would have nothing over which to exercise the power granted to it. Congress may repeal, alter and supplement the rules promulgated by this Court, but the authority and responsibility over the admission, suspension, disbarment and reinstatement of attorneys at law and their supervision remain vested in the Supreme Court. The power to repeal, alter and supplement the rules does not signify nor permit that Congress substitute or take

the place of this Tribunal in the exercise of its primary power on the matter. The Constitution does not say nor mean that Congress may admit, suspend, disbar or reinstate directly attorneys at law, or a determinate group of individuals to the practice of law. Its power is limited to repeal, modify or supplement the existing rules on the matter, if according to its judgment the need for a better service of the legal profession requires it. But this power does not relieve this Court of its responsibility to admit, suspend, disbar and reinstate attorneys at law and supervise the practice of the legal profession.

Being coordinate and independent branches, the power to promulgate and enforce rules for the admission to the practice of law and the concurrent power to repeal, alter and supplement them may and should be exercised with the respect that each owes to the other, giving careful consideration to the responsibility which the nature of each department requires. These powers have existed together for centuries without diminution on each part; the harmonious delimitation being found in that the legislature may and should examine if the existing rules on the admission to the Bar respond to the demands which public interest requires of a Bar endowed with high virtues, culture, training and responsibility. The legislature may, by means of repeal, amendment or supplemental rules, fill up any deficiency that it may find, and the judicial power, which has the inherent responsibility for a good and efficient administration of justice and the supervision of the practice of the legal profession, should consider these reforms as the minimum standards for the elevation of the profession, and see to it that with these reforms the lofty objective that is desired in the exercise of its traditional duty of admitting, suspending, disbarring and reinstating attorneys at law is realized. They are powers which, exercised within their proper constitutional limits, are not repugnant, but rather complementary to each other in attaining the establishment of a Bar that would respond to the increasing and exacting necessities of the administration of justice.

The case of Guariña (1913) 24 Phil., 37, illustrates our criterion. Guariña took the examinations and failed by a few points to obtain the general average. A recently enacted law provided that one who had been appointed to the position of Fiscal may be admitted to the practice of law without a previous examination. The Government appointed Guariña and he discharged the duties of Fiscal in a remote province. This Tribunal refused to give his license without previous examinations. The court said:

"Relying upon the provisions of section 2 of Act No. 1597, the applicant in this case seeks admission to the bar, without taking the

prescribed examination, on the ground that he holds the office of provincial fiscal for the Province of Batanes.

Section 2 of Act No. 1597, enacted February 28, 1907, is as follows:

"SEC. 2. Paragraph one of section thirteen of Act Numbered One Hundred and ninety, entitled 'An Act providing a Code of Procedure in Civil Actions and Special Proceedings in the Philippine Islands,' is hereby amended to read as follows:

"1. Those who have been duly licensed under the laws and orders of the Islands under the sovereignty of Spain or of the United States and are in good and regular standing as members of the bar of the Philippine Islands at the time of the adoption of this code; *Provided*, That any person who, prior to the passage of this Act, or at any time thereafter, shall have held, under the authority of the United States, the position of justice of the Supreme Court, judge of the Court of First Instance, or judge or associate judge of the Court of Land Registration, of the Philippine Islands, or the position of Attorney General, Solicitor General, Assistant Attorney General, assistant attorney in the office of the Attorney General, prosecuting attorney for the City of Manila, assistant prosecuting attorney for the City of Manila, city attorney of Manila, assistant city attorney of Manila, provincial fiscal, attorney for the Moro Province, or assistant attorney for the Moro Province, may be licensed to practice law in the courts of the Philippine Islands without an examination, upon motion before the Supreme Court and establishing such fact to the satisfaction of said court."

"The records of this court disclose that on a former occasion this applicant took, and failed to pass the prescribed examination. The report of the examining board, dated March 23, 1907, shows that he received an average of only 71 per cent in the various branches of legal learning upon which he was examined, thus falling four points short of the required percentage of 75. We would be delinquent in the performance of our duty to the public and to the bar, if, in the face of this affirmative indication of the deficiency of the applicant in the required qualifications of learning in the law at the time when he presented his former application for admission to the bar, we should grant him a license to practice law in the courts of these Islands, without first satisfying ourselves that despite his failure to pass the examination on that occassion, he now 'possesses the necessary qualifications of learning and ability.'

"But it is contended that under the provisions of the above-cited statute the applicant is entitled as of right to be admitted to the bar without taking the prescribed examination 'upon motion before the Supreme Court' accompanied by satisfactory proof that he has held and now holds the office of provincial fiscal of the Province of Batanes. It is urged that having in mind the object which the legislator apparently sought to attain in enacting the above-cited amendment to the earlier statute, and in view of the context generally and especially of the fact that the amendment was inserted as a proviso in that section of the original Act which specifically provides for the admission of certain candidates without examination, the clause 'may be licensed to practice law in the courts of the Philippine Islands without any examination.' It is contended that this mandatory construction is imperatively required in order to give effect to the apparent intention of the legislator, and to the candidate's claim *de jure* to have the power exercised."

And after copying article 9 of Act of July 1, 1902 of the Congress of the United States, articles 2, 16 and 17

of Act No. 136, and articles 13 to 16 of Act 190, the court continued:

"Manifestly, the jurisdiction thus conferred upon this court by the commission and confirmed to it by the Act of Congress would be limited and restricted, and in a case such as that under consideration wholly destroyed, by giving the word 'may,' as used in the above citation from Act No. 1597, a mandatory rather than a permissive effect. But any act of the commission which has the effect of setting at naught in whole or in part the Act of Congress of July 1, 1902, or of any Act of Congress prescribing, defining or limiting the power conferred upon the commission is to that extent invalid and void, as transcending its rightful limits and authority.

Speaking on the application of the law to those who were appointed to the positions enumerated, and with particular emphasis in the case of Guariña, the Court held:

"In the various cases wherein applications for admission to the bar under the provisions of this statute have been considered heretofore, we have accepted the fact that such appointments had been made as satisfactory evidence of the qualifications of the applicant. But in all of those cases we had reason to believe that the applicants had been practicing attorneys prior to the date of their appointment.

"In the case under consideration, however, it affirmatively appears that the applicant was not and never had been practicing attorney in this or any other jurisdiction prior to the date of his appointment as provincial fiscal, and it further affirmatively appears that he was deficient in the required qualifications at the time when he last applied for admission to the bar.

"In the light of this affirmative proof of his deficiency on that occasion, we do not think that his appointment to the office of provincial fiscal is in itself satisfactory proof of his possession of the necessary qualifications of learning and ability. We conclude therefore that this application for license to practice in the courts of the Philippines, should be denied.

"In view, however, of the fact that when he took the examination he fell only four points short of the necessary grade to entitle him to a license to practice; and in view also of the fact that since that time he has held the responsible office of the governor of the Province of Sorsogon and presumably gave evidence of such marked ability in the performance of the duties of that office that the Chief Executive, with the consent and approval of the Philippine Commission, sought to retain him in the Government service by appointing him to the office of provincial fiscal, we think we would be justified under the above-cited provisions of Act No. 1597 in waiving in him case the ordinary examination prescribed by general rule, provided he offers satisfactory evidence of his proficiency in a special examination which will be given him by a committee of the court upon his application therefor, without prejudice to his right, if he desires so to do, to present himself at any of the ordinary examinations prescribed by general rule."—(In re Guariña, pp. 48–49.)

It is obvious, therefore, that the ultimate power to grant license for the practice of law belongs exclusively to this Court, and the law passed by Congress on the matter is of permissive character, or as other authorities say, merely to fix the minimum conditions for the license.

The law in question, like those in the case of Day and Cannon, has been found also to suffer from the fatal defect of being a class legislation, and that if it has intended to make a classification, it is artitrary and unreasonable.

In the case of Day, a law enacted on February 21, 1899 required of the Supreme Court, until December 31 of that year, to grant license for the practice of law to those students who began studying before November 4, 1897, and had studied for two years and presented a diploma issued by a school of law, or to those who had studied in a law office and would pass an examination, or to those who had studied for three years if they commenced their studies after the aforementioned date. The Supreme Court declared that this law was unconstitutional being, among others, a class legislation. The Court said:

"This is an application to this court for admission to the bar of this state by virtue of diplomas from law schools issued to the applicants. The act of the general assembly passed in 1899, under which the application is made, is entitled 'An act to amend section 1 of an act entitled 'An act to revise the law in relation to attorneys and counselors,' approved March 28, 1894, in force July 1, 1874.' The amendment, so far as it appears in the enacting clause, consists in the addition to the section of the following: 'And every applicant for a license who shall comply with the rules of the supreme court in regard to admission to the bar in force at the time such applicant commenced the study of law, either in a law office or a law school or college, shall be granted a license under this act notwithstanding any subsequent changes in said rules'."—In re Day et al, 54 N. Y., p. 646.

* * * "After said provision there is a double proviso, one branch of which is that up to December 31, 1899, this court shall grant a license of admittance to the bar to the holder of every diploma regularly issued by any law school regularly organized under the laws of this state, whose regular course of law studies is two years, and requiring an attendance by the student of at least 36 weeks in each of such years, and showing that the student began the study of law prior to November 4, 1897, and accompanied with the usual proofs of good moral character. The other branch of the proviso is that any student who has studied law for two years in a law office, or part of such time in a law office, 'and part in the aforesaid law school,' and whose course of study began prior to November 4, 1897, shall be admitted upon a satisfactory examination by the examining board in the branches now required by the rules of this court. If the right to admission exists at all, it is by virtue of the proviso, which, it is claimed, confers substantial rights and privileges upon the persons named therein, and establishes rules of legislative creation for their admission to the bar." (p. 647.)

"Considering the proviso, however, as an enactment, it is clearly a special legislation, prohibited by the constitution, and invalid as such. If the legislature had any right to admit attorneys to practice in the courts and take part in the administration of justice, and could prescribe the character of evidence which should be received by the court as conclusive of the requisite learning and ability of persons to practice law, it could only be done by a general law, and not by granting special and exclusive privileges to certain persons or classes of persons. Const. art 4, section 2. The right to

practice law is a privilege, and a license for that purpose makes the holder an officer of the court, and confers upon him the right to appear for litigants, to argue causes, and to collect fees therefor, and creates certain exemptions, such as from jury service and arrest on civil process while attending court. The law conferring such privileges must be general in its operation. No doubt the legislature, in framing an enactment for that purpose, may classify persons so long as the law establishing classes in general, and has some reasonable relation to the end sought. There must be some difference which furnishes a reasonable basis for different legislation as to the different classes, and not a purely arbitrary one, having no just relation to the subject of the legislation. Braceville Coal Co. *vs.* People, 147 Ill. 66, 35 N. E. 62; Ritchie *vs.* People, 155 III. 98, 40 N. E. 454; Railroad Co. *vs.* Ellis, 165 U. S. 150, 17 Sup. Ct. 255.

"The length of time a physician has practiced, and the skill acquired by experience, may furnish a basis for classification (Williams *vs.* People, 121 Ill. 48, II N. E. 881); but the place where such physician has resided and practiced his profession cannot furnish such basis, and is an arbitrary discrimination, making an enactment based upon it void (State *vs.* Pennyeor, 65 N. E. 113, 18 Atl. 878). Here the legislature undertakes to say what shall serve as a test of fitness for the profession of the law, and, plainly, any classification must have some reference to learning, character, or ability to engage in such practice. The proviso is limited, first, to a class of persons who began the study of law prior to November 4, 1897. This class is subdivided into two classes—First, those presenting diplomas issued by any law school of this state before December 31, 1899; and, second, those who studied law for the period of two years in a law office, or part of the time in a law school and part in a law office, who are to be admitted upon examination in the subjects specified in the present rules of this court, and as to this latter subdivision there seems to be no limit of time for making application for admission. As to both classes, the conditions of the rules are dispensed with, and as between the two different conditions and limits of time are fixed. No course of study is prescribed for the law school, but a diploma granted upon the completion of any sort of course its managers may prescribe is made all-sufficient. Can there be anything with relation to the qualifications or fitness of persons to practice law resting upon the mere date of November 4, 1897, which will furnish a basis of classification. Plainly not. Those who began the study of law November 4th could qualify themselves to practice in two years as well as those who began on the 3rd. The classes named in the proviso need spend only two years in study, while those who commenced the next day must spend three years, although they would complete two years before the time limit. The one who commenced on the 3d. If possessed of a diploma, is to be admitted without examination before December 31, 1899, and without any prescribed course of study, while as to the other the prescribed course must be pursued, and the diploma is utterly useless. Such classification cannot rest upon any natural reason, or bear any just relation to the subject sought, and none is suggested. The proviso is for the sole purpose of bestowing privileges upon certain defined persons. (pp. 647–648.)

In the case of Cannon above cited, State *vs.* Cannon, 240 N. W. 441, where the legislature attempted by law to reinstate Cannon to the practice of law, the court also held with regards to its aspect of being a class legislation:

"But the statute is invalid for another reason. If it be granted that the legislature has power to prescribe ultimately and definitely the qualifieations upon whieh eourts must admit and license those applying as attorneys at law, that power ean not be exercised in the manner here attempted. That power must be exereised through general laws whieh will apply to all alike and accord equal opportunity to all. Speaking of the right of the Legislature to exaet qualifieations of those desiring to pursue chosen eallings, Mr. Justice Field in the case of Dent *vs.* West Virginia, 129 U. S. 114, 121, 9 S. Ct. 232, 233, 32 L. Ed. 626, said: 'It is undoubtedly the right of every eitizen of the United States to follow any lawful ealling, business or profession he may choose, subjeet only to such restrictions as are imposed upon all persons of like age, sex, and condition. This right may in many respects be considered as a distinguishing feature of our republiean institutions. Here all vocations are all open to every one on like eonditions. All may be pursued as sources of livelihood, some requiring years of study and great learning for their successful proseeution. The interest, or, as it is sometimes termed, the 'estate' acquired in them—that is, the right to continue their prosecution—is often of great value to the possessors, and cannot be arbitrarily taken from them, any more than their real or personal property can be thus taken. It is fundamental under our system of government that all similarly situated and possessing equal qualifications shall enjoy equal opportunities. Even statutes regulating the practice of medicine, requiring examinations to establish the possession on the part of the application of his proper qualifications before he may be licensed to practice, have been challenged, and courts have seriously considered whether the exemption from sueh examinations of those practicing in the state at the time of the enactment of the law rendered such law unconstitutional because of infringement upon this general principle. State *vs.* Thomas Call, 121 N. C. 643, 28 S. E. 517; see, also, The State ex rel. Winkler *vs.* Rosenberg, 101 Wis. 172, 76 N. W. 345; State *vs.* Whitcom, 122 Wis. 110, 99 N. W. 468.

"This law singles out Mr. Cannon and assumes to confer upon him the right to practice law and to eonstitute him an officer of this Court as a mere matter of legislative grace or favor. It is not material that he had once established his right to practice law and that one time he possessed the requisite learning and other qualifications to entitle him to that right. That fact in no manner affect the power of the Legislature to select from the great body of the public an individual upon whom it would confer its favors.

"A statute of the state of Minnesota (Laws 1929, c. 424) eommanded the Supreme Court to admit to the practice of law, without examination, all who had 'serve in the military or naval forces of the United States during the World War and reeeived an honorable discharge therefrom and who (were disabled therein or thereby within the purview of the Aet of Congress approved June 7th, 1924, known as 'World War Veteran's Act, 1924 and whose disability is rated at least ten per cent thereunder at the time of the passage of this Act." This Act was held unconstitutional on the ground that it elearly violated the quality elauses of the eonstitution of that state. In re Application of George W. Humphrey, 178 Minn. 331, 227 N. W. 179.

A good summary of a classification constitutionally acceptable is explained in 12 Am. Jur. 151–153 as follows:

"The general rule is well settled by unanimity of the authorities that a elassification to be valid must rest upon material differences between the persons ineluded in it and those excluded and, furthermore, must be based upon substantial distinctions. As the rule has

sometimes avoided the constitutional prohibition, must be founded upon pertinent and real differences, as distinguished from irrelevant and artificial once. Therefore, any law that is made applicable to one class of citizens only must be based on some substantial difference between the situation of that class and other individuals to which it does not apply and must rest on some reason on which it can be defended. In other words, there must be such a difference between the situation and circumstances of all the members of the class and the situation and circumstances of all other members of the state in relation to the subjects of the discriminatory legislation as presents a just and natural reason for the difference made in their liabilities and burdens and in their rights and privileges. A law is not general because it operates on all within a clause unless there is a substantial reason why it is made to operate on that class only, and not generally on all." (12 Am. Jur. pp. 151–153.)

Pursuant to the law in question, those who, without a grade below 50 per cent in any subject, have obtained a general average of 69.5 per cent in the bar examinations in 1946 to 1951, 70.5 per cent in 1952, 71.5 per cent in 1953, and those will obtain 72.5 per cent in 1954, and 73.5 per cent in 1955, will be permitted to take and subscribe the corresponding oath of office as members of the Bar, notwithstanding that the rules require a minimum general average of 75 per cent, which has been invariably followed since 1950. Is there any motive of the nature indicated by the abovementioned authorities, for this classification? If there is none, and none has been given, then the classification is fatally defective.

It was indicated that those who failed in 1944, 1941 or the years before, with the general average indicated, were not included because the Tribunal has no record of the unsuccessful candidates of those years. This fact does not justify the unexplained classification of unsuccessful candidates by years, from 1946–1951, 1952, 1953, 1954, 1955. Neither is the exclusion of those who failed before said years under the same conditions justified. The fact that this Court has no record of examinations prior to 1946 does not signify that no one concerned may prove by some other means his right to an equal consideration.

To defend the disputed law from being declared unconstitutional on account of its retroactivity, it is argued that it is curative, and that in such form it is constitutional. What does Rep. Act 972 intend to cure? Only from 1946 to 1949 were there cases in which the Tribunal permitted admission to the bar of candidates who did not obtain the general average of 75 per cent: in 1946 those who obtained only 72 per cent; in the 1947 all these who had 69 per cent or more; in 1948, 70 per cent in 1949, 74 per cent; and in 1950 to 1953, those who obtained 74 per cent, which was considered by the Court as equivalent to 75 per cent as prescribed by the Rules, by reason of circumstances deemed to be sufficiently justifiable. These changes in the passing

averages during those years were all that could be objected to or criticized. Now, is it desired to undo what had been done—cancel the license that was issued to those who did not obtain the prescribed 75 per cent? Certainly not. The disputed law clearly does not propose to do so. Concededly, it approves what has been done by this Tribunal. What Congress lamented is that the Court did not consider 69.5 per cent obtained by those candidates who failed in 1946 to 1952 as sufficient to qualify them to practice law. Hence, it is the lack of will or defect of judgment of the Court that is being cured, and to complete the cure of this infirmity, the effectivity of the disputed law is being extended up to the years 1953, 1954 and 1955, increasing each year the general average by one per cent, with the order that said candidates be admitted to the Bar. This purpose, manifest in the said law, is the best proof that what the law attempts to amend and correct are not the rules promulgated, but the will or judgment of the Court, by means of simply taking its place. This is doing directly what the Tribunal should have done during those years according to the judgment of Congress. In other words, the power exercised was not to repeal, alter or supplement the rules, which continue in force. What was done was to stop or suspend them. And this power is not included in what the Constitution has granted to Congress, because it falls within the power to apply the rules. This power corresponds to the judiciary, to which such duty has been confided.

Article 2 of the law in question permits partial passing of examinations, at indefinite intervals. The grave defect of this system is that it does not take into account that the laws and jurisprudence are not stationary, and when a candidate finally receives his certificate, it may happen that the existing laws and jurisprudence are already different, seriously affecting in this manner his usefulness. The system that the said law prescribes was used in the first bar examinations of this country, but was abandoned for this and other disadvantages. In this case, however, the fatal defect is that the article is not expressed in the title of the Act. While this law according to its title will have temporary effect only from 1946 to 1955, the text of article 2 establishes a permanent system for an indefinite time. This is contrary to Section 21(1), article VI of the Constitution, which vitiates and annuls article 2 completely; and because it is inseparable from article 1, it is obvious that its nullity affects the entire law.

Laws are unconstitutional on the following grounds: first, because they are not within the legislative powers of Congress to enact, or Congress has exceeded its powers; second, because they create or establish arbitrary methods

or forms that infringe constitutional principles; and third, because their purposes or effects violate the Constitution or its basic principles. As has already been seen, the contested law suffers from these fatal defects.

Summarizing, we are of the opinion and hereby declare that Republic Act No. 972 is unconstitutional and, therefore, void, and without any force nor effect for the following reasons, to wit:

1. Because its declared purpose is to admit 810 candidates who failed in the bar examinations of 1946–1952, and who, it admits, are certainly inadequately prepared to practice law, as was exactly found by this Court in the aforesaid years. It decrees the admisison to the Bar of these candidates, depriving this Tribunal of the opportunity to determine if they are at present already prepared to become members of the Bar. It obliges the Tribunal to perform something contrary to reason and in an arbitrary manner. This is a manifest encroachment on the constitutional responsibility of the Supreme Court.

2. Because it is, in effect, a judgment revoking the resolution of this Court on the petitions of these 810 candidates, without having examined their respective examination papers, and although it is admitted that this Tribunal may reconsider said resolution at any time for justifiable reasons, only this Court and no other may revise and alter them. In attempting to do it directly Republic Act No. 972 violated the Constitution.

3. By the disputed law, Congress has exceeded its legislative power to repeal, alter and supplement the rules on admission to the Bar. Such additional or amendatory rules are, as they ought to be, intended to regulate acts subsequent to its promulgation and should tend to improve and elevate the practice of law, and this Tribunal shall consider these rules as minimum norms towards that end in the admission, suspension, disbarment and reinstatement of lawyers to the Bar, inasmuch as a good bar assists immensely in the daily performance of judicial functions and is essential to a worthy administration of justice. It is therefore the primary and inherent prerogative of the Supreme Court to render the ultimate decision on who may be admitted and may continue in the practice of law according to existing rules.

4. The reason advanced for the pretended classification of candidates, which the law makes, is contrary to facts which are of general knowledge and does not justify the admission to the Bar of law students inadequately prepared. The pretended classification is arbitrary. It is undoubtedly a class legislation.

5. Article 2 of Republic Act No. 972 is not embraced in the title of the law, contrary to what the Constitution enjoins, and being inseparable from the provisions of article 1, the entire law is void.

6. Lacking in eight votes to declare the nullity of that part of article 1 referring to the examinations of 1953 to 1955, said part of article 1, insofar as it concerns the examinations in those years, shall continue in force.

RESOLUTION

Upon mature deliberation by this Court, after hearing and availing of the magnificent and impassioned discussion of the contested law by our Chief Justice at the opening and close of the debate among the members of the Court, and after hearing the judicious observations of two of our beloved colleagues who since the beginning have announced their decision not to take part in voting, we, the eight members of the Court who subscribe to this decision have voted and resolved, and have decided for the Court, and under the authority of the same:

1. That (*a*) the portion of article 1 of Republic Act No. 972 referring to the examinations of 1946 to 1952, and (*b*) all of article 2 of said law are unconstitutional and, therefore, void and without force and effect.

2. That, for lack of unanimity in the eight Justices, that part of article 1 which refers to the examinations subsequent to the approval of the law, that is from 1953 to 1955 inclusive, is valid and shall continue to be in force, in conformity with section 10, article VII of the Constitution.

Consequently, (1) all the above-mentioned petitions of the candidates who failed in the examinations of 1946 to 1952 inclusive are denied, and (2) all candidates who in the examinations of 1953 obtained a general average of 71.5 per cent or more, without having a grade below 50 per cent in any subject, are considered as having passed, whether they have filed petitioners for admission or not. After this decision has become final, they shall be permitted to take and subscribe the corresponding oath of office as members of the Bar on the date or dates that the Chief Justice may set. So ordered.

Bengzon, Montemayor, Jugo, Labrador, Pablo, Padilla, and *Reyes, JJ.*, concur.

Angelo Bautista and *Concepcion, JJ.*, did not take part.

PARÁS, *C. J.:*

Dissents in separate opinion.

ANNEX I

THE PETITIONERS AND THEIR CLASSIFICATION

A resumé of pertinent facts concerning the bar examinations of 1946 to 1953 inclusive follows:

August, 1946 [1]

Board of Examiners: Hon. Pedro Tuason, Chairman, Prof. Gerardo Florendo, Atty. Bernardino Guerrero, Atty. Joaquin Ramirez, Atty. Crispin Oben, Hon. Jose Teodoro, Atty. Federico Agrava, Atty. Jose Perez Cardenas, and Hon. Bienvenido A. Tan, members.

Number of candidates		206
Number of candidates whose grades were raised		12
73's	6	
72's	6	
Number of candidates who passed		85
Number of candidates who failed		121
Number of those affected by Republic Act No. 972		18
Percentage of success	(per cent)	41.26
Percentage of failure	(per cent)	58.74
Passing grade	(per cent)	72

November, 1946

Board of Examiners: The same as that of August, 1946, except Hon. Jose Teodoro who was substituted by Atty. Honesto K. Bausan.

Number of candidates		481
Number of candidates whose grades were raised		19

(72 per cent and above but below 73 per cent—Minutes of March 31, 1947)

Number of candidates who passed		249
Number of candidates who failed		228
Number of those affected by Republic Act No. 972		43
Percentage of success	(per cent)	52.20
Percentage of failure	(per cent)	47.80
Passing grade	(per cent)	72

(By resolution of the Court).

October, 1947

Board of Examiners: Hon. Cesar Bengzon, Chairman, Hon. Guillermo B. Guevara, Atty. Antonio Araneta, Atty. Simon Cruz, Hon. Sixto de la Costa, Atty. Celso B. Jamora, Hon. Emilio Peña, Atty. Federico Agrava, Atty. Carlos B. Hilado, Members.

Number of candidates		749
Number of candidates whose grades were raised		43
70.55 per cent with 2 subjects below 50 per cent	1	
69 per cent	40	
68 per cent	2	
Number of candidates who passed		409
Number of candidates who failed		340
Number of those affected by Rep. Act No. 972		972
Percentage of success	(per cent)	54.59
Percentage of failure	(per cent)	45.41
Passing grade	(per cent)	69

[1] In 1946 and 1947, the members of the Supreme Court were Hon. Manuel V. Moran, Chief Justice, Hon. Ricardo Paràs, Hon. Felicisimo Feria, Hon. Guillermo F. Pablo, Hon. Gregorio Perfecto, Hon. Carlos Hilado, Hon. Cesar Bengzon, Hon. Manuel C. Briones, Hon. Jose Hontiveros, Hon. Sabino Padilla, and Hon. Pedro Tuason, Associate Justices. In 1948, Justices Marcelino R. Montemayor and Alex. Reyes took the place of Justices Hilado, resigned, and Hontiveros, retired. Justice Roman Ozaeta was returned to the Court and Justice Sabino Padilla was appointed Secretary of Justice. In June, 1949, Justice Padilla was returned to the Tribunal, as Justice Briones resigned. In October, 1950, Justices Fernando Jugo and Felix Bautista Angelo were appointed to the Court, as Justice Perfecto had died, and Justice Ozaeta had resigned. In 1951, Chief Justice Manuel V. Moran resigned and Justice Ricardo Paràs was appointed Chief Justice. In 1953, Justice Felicisimo R. Feria retired.

(By resolution of the Court).

NOTE.—In passing the 2 whose grades were 68.95 per cent and 68.1 per cent respectively, the Court found out that they were not benefited at all by the bonus of 12 points given by the Examiner in Civil Law.

August, 1948

Board of Examiners: Hon. Marceliano R. Montemayor, Chairman Hon. Luis P. Torres, Hon. Felipe Natividad, Hon. Jose Teodoro, Sr., Atty. Federico Agrava, Atty. Macario Peralta, Sr., Hon. Jesus G. Barrera, Hon. Rafael Amparo, Atty. Alfonso Ponce Enrile, Members.

Number of candidates		899
Number of candidates whose grades were raised		64
71's	29	
70's	35	
Number of candidates who passed		490
Number of candidates who failed		409
Number of those affected by Rep. Act No. 972		11
Percentage of success	(per cent)	62.40
Percentage of failure	(per cent)	37.60
Passing grade	(per cent)	70

(By resolution of the Court).

August, 1949

Board of Examiners: Hon. Sabino Padilla, Chairman, Hon. Fernando Jugo, Hon. Enrique Filamor, Atty. Salvador Araneta, Hon. Pastor M. Endencia, Atty. Federico Agrava, Hon. Mariano H. de Joya, Hon. Felipe Natividad, Atty. Emeterio Barcelon, Members.

Number of candidates		1,218
Number of candidates whose grades were raised (74's)		55
Number of candidates who passed		686
Number of candidates who failed		532
Number of those affected by Republic Act No. 972		164
Percentage of success	(per cent)	56.28
Percentage of failure	(per cent)	43.72
Passing grades	(per cent)	74

(By resolution of the Court).

August, 1950

Board of Examiners: Hon. Fernando Jugo,[1] Chairman, Hon. Guillermo B. Guevara, Atty. Enrique Altavas, Atty. Marcial P. Lichauco, Atty. Carlos B. Hilado, Atty. J. Antonio Araneta, Hon. Enrique V. Filamor, Hon. Francisco A. Delgado, Hon. Antonio Horrilleno, Members.

Number of candidates	1,316
Number of candidates whose grades were raised	38

(The grade of 74 was raised to 75 per cent by recommendation and authority of the examiner in Remedial Law, Atty. Francisco Delgado).

Number of candidates who passed	423
Number of candidates who failed	894
Number of those affected by Republic Act No. 972	26

[1] Designated as Chairman of the Committee of Bar Examiners vice Mr. Justice Roman Ozaeta, resigned.

Percentage of success	(per cent)	32.14
Percentage of failure	(per cent)	67.86
Passing grade	(per cent)	75

August, 1951

Board of Examiners: Hon. Guillermo F. Pablo, Chairman, Hon. Pastor M. Endencia, Atty. Enrique Altavas, Hon. Manuel Lim, Hon. Felipe Natividad, Hon. Vicente Albert, Atty. Arturo Alafriz, Hon. Enrique V. Filamor, Hon. Alfonso Felix, Members.

Number of candidates		2,068
Number of candidates whose grades were raised (74's)		112
Number of candidates who passed		1,189
Number of candidates who failed		879
Number of those affected by Republic Act No. 972		196
Percentage of success	(per cent)	57.49
Percentage of failure	(per cent)	42.51
Passing grade	(per cent)	75

August, 1952

Board of Examiners: Hon. Sabino Padilla, Chairman, Hon. Pastor M. Endencia, Hon. Enrique V. Filamor, Atty. Francisco Ortigas, Hon. Emilio Peña, Atty. Emilio P. Virata, Hon. Alfonso Felix, Hon. Felipe Natividad, Atty. Macario Peralta, Sr., Members.

Number of candidates		2,738
Number of candidates whose grades were raised (74's)		163
Number of candidates who passed		1,705
Number of candidates who failed		1,033
Number of those affected by Republic Act No. 972		426
Percentage of success	(per cent)	62.27
Percentage of failure	(per cent)	37.73
Passing grade	(per cent)	75

August, 1953

Board of Examiners: Hon. Fernando Jugo, Chairman, Hon. Pastor M. Endencia, Atty. Enrique Altavas, Atty. Francisco Ortigas, Jr., Hon. Emilio Peña, Atty. Jose S. de la Cruz, Hon. Alfonso Felix, Hon. Felipe Natividad, Hon. Mariano L. de la Rosa, Members.

Number of candidates		2,555
Number of candidates whose grades were raised (74's)		100
Number of candidates who passed		1,570
Number of candidates who failed		986
Number of those affected by Republic Act No. 972		234
Percentage of success	(per cent)	61.04
Percentage of failure	(per cent)	38.96
Passing grade	(per cent)	75

A list of petitioners for admission to the Bar under Republic Act No. 972, grouped by the years in which they took the bar examinations, with annotations as to who had presented motions for reconsideration which were denied (MRD), and who filed mere motions for reconsideration without invoking said law, which are still pending, follows:

PETITIONERS UNDER THE BAR FLUNKERS' LAW

		Civ.	Land	Merc.	Int.	Pol.	Crim.	Rem.	Leg.	Gen. Av.
MRD-	1. Agunod, Filemon L.	66	71	61	76	80	83	73	75	71.4
MRD-	2. Cunanan Albino	76	72	74	75	70	70	65	72	71.45
	3. Mejia, Flaviano V.	64	64	65	68	83	74	68	80	69.85
	1948	Civ.	Land	Merc.	Int.	Pol.	Crim.	Rem.	Leg.	Gen. Av.
MRD-	4. Orlina, Soledad R.	71	68	66	75	63	75	70	88	69.9
MRD-	5. Vivero, Antonio Lu.	75	73	73	65	63	66	65	80	69.95
MRD-	6. Gatchalian, Salud	72	65	71	75	78	68	65	50	69.65
	1949	Civ.	Land	Merc.	Int.	Pol.	Crim.	Rem.	Leg.	Gen. Av.
	7. Abaya, Jesus A.	69	79	75	75	71	89	55	75	70.8
MRD-	8. Advincula, David D.	75	80	62	86	81	72	60	65	70.5
	9. Agraviador, Alfredo L.	63	85	70	77	80	81	65	80	71.8
	10. Alacar, Pascual C.	61	63	83	79	71	85	65	80	72.05
	11. Amog, Pedro M.	75	66	76	78	81	74	55	85	72.2
	12. Apolinario, Miguel S.	75	84	78	78	70	70	60	75	71.95
	13. Aquino, Maximo G.	82	77	71	77	76	77	60	75	73.15
	14. Asinas, Candido D.	75	83	69	80	81	83	55	85	72.65
	15. Baldivino, Jose B.	75	65	72	82	82	69	60	80	71.95
	16. Balintona, Bernardo	75	80	64	78	74	67	65	70	70
	17. Banawa, Angel L.	78	70	70	75	81	83	60	60	72.3
	18. Bandala, Anacleto A.	65	80	66	71	93	72	55	70	69.6
	19. Bandon, Alawadin L.	74	79	69	77	91	73	60	80	73.35
	20. Baquero, Benjamin	76	79	64	77	85	72	65	75	72.5
	21. Blanco Jose	75	75	70	75	77	76	60	90	72.5
	22. Buenaluz, Victoriano T.	75	71	72	78	67	82	60	75	70.85
	23. Canda, Benjamin S.	75	72	75	82	76	77	65	75	73.55
	24. Canon, Guillermo	77	86	67	88	75	69	70	85	73.9
	25. Carlos, Estela S.	75	81	81	79	72	73	65	70	73.8
	26. Cerezo, Gregorio O.	69	76	75	79	71	80	55	80	70.4
	27. Clarin, Manuel L.	75	82	76	81	73	69	70	75	73.95
	28. Claudio, Conrado O.	76	62	78	77	73	72	60	70	71.4
	29. Condevillamar, Antonio V.	68	65	74	80	85	75	60	75	71.65
MRD-	30. Cornejo, Crisanto R.	72	75	69	82	83	79	65	80	73.4
	31. Corona, Olvido D.	68	76	73	81	81	72	60	75	71.15
	32. Dizon, Marcial C.	76	86	69	83	75	74	65	80	73.1
	33. Enriquez, Agustin P.	75	77	70	81	81	77	65	80	73.75
	34. Espiritu, Irineo E.	80	88	69	75	76	77	65	75	73.8
	35. Fernandez, Macario J.	63	82	76	75	81	84	65	75	72.95
	36. Gallardo, Amando C.	78	79	67	77	76	75	60	65	70.95
	37. Garcia, Friedrich M.	76	80	65	75	72	70	60	75	69.7
	38. Garcia, Julian L.	64	77	68	82	89	77	65	75	72.15
	39. Garcia Leon Mo.	77	86	71	80	60	82	65	75	71.85
	40. Garcia, Pedro V.	76	82	73	81	74	83	60	85	73.5
	41. Garcia, Santiago C.	62	91	79	75	72	75	65	80	71.8
	42. Genoves, Pedro	75	83	70	78	87	76	55	80	72.7
	43. Gonzales, Amado P.	75	71	71	75	86	75	60	75	72.65
	44. Guia, Odon R. de	77	76	66	81	74	76	60	75	70.9
	45. Fernandez, Simeon	62	68	71	80	74	90	65	75	70.85
	46. Jakosalem, Filoteo	82	83	73	82	61	87	65	70	73.6
	47. Jeus, Felipe D. de	75	83	67	79	78	85	60	75	72.45
	48. Jocom, Jacobo M.	77	77	74	77	74	64	55	85	70.65
	49. Juares, Nicolas	77	84	55	76	73	82	60	85	70
	50. Kalalang, Remigio	65	75	74	80	70	70	65	85	70.3
	51. Layumas, Vicente L.	67	84	65	75	89	66	60	80	70.3
	52. Leyson, Amancio F.	69	83	75	76	81	75	65	75	73.15
	53. Libanan, Marcelino	71	83	61	77	80	81	65	85	71.75
	54. Lim, Jose F.	77	77	72	76	72	64	65	70	71.15
	55. Lim, Jose F.	70	75	62	83	80	71	65	80	70.4
	56. Linao, Mariano M.	66	84	76	78	80	75	60	75	71.75
	57. Lopez, Angelo P.	67	81	75	72	79	81	55	80	71
	58. Lopez, Eliezar M.	77	75	60	75	77	85	60	75	70.7
	59. Lopez, Nicanor S.	72	71	70	78	77	84	60	75	71.55
	60. Manoleto, Proceso D.	72	70	65	78	81	90	60	80	71.95
	61. Mancao, Alfredo P.	58	80	82	76	69	65	75	80	71.65
	62. Manera, Mariano A.	75	78	75	75	58	79	60	55	71
	63. Mercado, Arsenio N.	67	64	71	83	75	75	65	80	70.95
	64. Miranda, Benjamin G.	76	81	67	82	74	77	65	80	72.55
	65. Manad, Andres B.	77	75	68	82	69	72	65	75	71.15

	1949	Civ.	Land	Merc.	Int.	Pol.	Crim.	Rem.	Leg.	Gen. Av.
	66. Orosco, Casimiro P.	72	84	69	81	70	82	65	75	71.9
	67. Padua, Manuel C.	76	76	68	80	79	79	50	75	70.1
	68. Pulang, Basilio S.	71	75	82	71	55	87	55	75	69.6
	69. Palma, Cuadrato	62	75	69	93	80	79	55	80	69.5
	70. Pañganiban, Jose V.	67	83	61	81	91	74	60	75	70.6
	71. Pareja, Felipe	66	71	75	81	67	74	60	70	68.75
	72. Patalinjug, Eriberto	73	77	78	73	78	71	55	75	71.25
	73. Paulin, Jose C.	66	69	71	77	83	82	66	75	72.1
	74. Pido, Serafin C.	72	78	63	80	71	85	70	80	72.05
	75. Pimentel, Luis P.	77	75	76	81	76	68	55	80	71.6
	76. Plantilla, Rodrigo C.	72	78	68	89	79	81	65	85	73.55
	77. Regalario, Benito B.	72	80	64	80	75	81	55	80	69.55
	78. Robis, Casto P.	62	77	74	73	68	80	70	80	70.9
	79. Rodil, Francisco C.	68	69	70	81	76	75	65	75	70.75
	80. Rodriguez, Mariano I.	80	76	69	80	72	80	65	80	73.35
	81. Romero, Crispulo P.	78	75	66	77	76	83	65	75	72.85
	82. Saez, Porfirio D.	75	75	72	81	69	77	60	75	71
	83. Saliguma, Crisogono D.	79	79	74	78	69	65	65	70	71.8
	84. Samano, Fortunato A.	75	84	72	77	70	82	60	75	71.9
	85. Santos, Faustina C.	71	68	68	76	75	85	55	75	69.5
	86. Santos, Josefina R.	68	69	76	71	77	82	65	76	72.3
	87. Soludo, Ananias G.	75	80	69	79	77	82	65	75	73.25
	88. Semilla, Rafael I.	68	85	65	83	89	79	65	80	71.26
	89. Telan, Gaudencio	77	79	70	75	70	75	60	75	70.85
	90. Tesorero, Leocadio T.	75	71	63	75	82	62	65	63	69.65
	91. Torre, Valentin S. de la	85	81	71	76	69	65	55	70	70.4
	92. Torres, Ariston L.	78	71	72	81	61	84	55	85	70.4
	93. Veyra, Zosimo C. de	70	75	71	79	65	80	65	80	70.65
	94. Viado, Jose	67	70	74	75	75	90	55	80	70.7
	95. Villacarlos, Delfin A.	73	87	71	82	69	70	75	85	73.85
	96. Villamil, Leonor S.	73	81	76	86	86	73	55	85	73.6
	97. Zabala, Amando A.	76	70	67	75	76	76	60	75	70.6
	1950	Civ.	Land	Merc.	Int.	Pol.	Crim.	Rem.	Leg.	Gen. Av.
MRD-	98. Cruz, Filomeno de la	70	71	78	81	76	72	64	96	73.4
	99. Española, Pablo S.	71	78	55	76	85	69	65	93	70.2
	100. Foronda, Clarencio J.	60	78	68	79	84	88	62	08	71.9
	101. Hechanova, Vicente	69	76	75	75	69	68	75	96	71.3
MRD-	102. Peñalosa, Osias R.	80	78	61	76	61	77	66	85	70.2
	103. Sarmiento, Floro A.	65	86	63	82	89	72	60	72	70.16
MRD-	104. Torre, Catalino P.	75	85	68	78	69	67	66	69	70.25
	105. Ungson, Fernando S.	61	87	75	70	57	85	83	82	72.8
	1951	Civ.	Land	Merc.	Int.	Pol.	Crim.	Rem.	Leg.	Gen. Av.
	106. Abasolo, Romulo	77	70	64	65	76	70	76	64	71.7
	107. Adeva, Daniel G.	75	69	74	65	69	51	78	67	70.4
	108. Aguilar, Vicente Z.	73	63	68	75	70	69	75	75	71.26
	109. Amodia, Juan T.	75	76	66	75	76	60	77	76	72.35
MRD-	110. Añosa, Pablo C.	76	78	63	75	74	61	75	79	71.6
	111. Antiola, Anastacio R.	68	76	75	70	71	70	81	66	73.05
	112. Aquino, S. Rey A.	70	71	71	60	74	62	76	77	71.1
	113. Atienza, Manuel G.	71	78	68	80	86	61	82	75	73.85
	114. Avanceña, Alfonso	71	71	65	75	70	72	78	80	71.8
MRD-	115. Balacuit, Camilo N.	75	73	75	70	72	65	75	76	73.25
	116. Barinaga, Jeremias L.	68	69	73	70	74	60	80	79	71.2
MRD-	117. Barrientos, Ambrosio D.	76	60	67	55	74	63	77	62	70.25
MRD-	118. Benitez, Tomas P.	67	75	75	60	73	72	75	78	72.2
	119. Biason, Sixto F.	73	82	67	65	66	72	77	68	71.26
MRD-	120. Briñas, Isogani A.	71	69	74	70	76	62	79	72	71.95
	121. Buela, Arcadio P.	72	77	61	70	71	58	79	71	69.75
	122. Cabilao, Leonardo S.	73	50	75	75	75	60	71	79	71.25
	123. Cabrera, Ireneo M.	75	66	70	65	72	81	70	79	72.4
	124. Cacacho, Emilio V.	65	65	71	75	71	58	82	68	70.45
	125. Calilung, Soledad C.	64	73	73	80	73	57	75	69	69.65
MRD-	126. Calimlim, Jose B.	64	73	73	80	73	57	75	59	60.65
	127. Calimlim, Pedro B.	66	82	69	60	69	52	83	75	70
	128. Camello, Sotero H.	70	77	63	65	75	66	84	64	71.55
	129. Campos, Juan A.	71	88	70	75	64	69	71	62	70.15
	130. Castillo, Antonio del	78	78	70	60	79	67	69	76	72.65
MRD-	131. Castillo, Dominador Ad.	75	61	72	75	74	71	67	66	71.1

1951	Civ.	Land	Merc.	Int.	Pol.	Crim.	Rem.	Leg.	Gen. Av.
MRD-132. Castro, Jesus B.	72	86	72	75	65	75	76	71	72.85
133. Casuga, Bienvenido B.	76	72	72	70	69	61	75	60	70.95
134. Cabangbang, Santiago B.	77	67	61	80	73	59	83	76	72.2
135. Cruz, Federico S.	69	74	75	75	68	65	76	70	71.65
135. Dacanay, Eufemio P.	70	73	62	75	72	69	85	71	72.06
137. Deysolong, Felisberto	66	62	72	75	70	52	83	62	70.85
MRD-138. Dimaano, Jr., Jose N.	78	79	63	75	73	75	81	59	73.5
139. Espinosa, Domingo L.	78	63	58	70	70	57	87	63	71.6
MRD-140. Farol, Evencia C.	80	78	65	75	81	72	62	73	72.25
141. Felix, Conrado S.	71	71	75	65	70	58	75	69	70.75
142. Fernan, Pablo L.	67	88	66	85	73	68	78	75	72.35
143. Gandioco, Salvador G.	54	58	66	55	76	70	89	75	72.1
144. Gastardo, Crispin B.	70	69	68	75	78	66	85	72	73.9
145. Genson, Angelo B.	76	57	73	55	67	54	78	56	69.55
145. Guiani, Guinaid M.	68	60	75	65	74	67	75	77	71.5
147. Guina, Graciano P.	66	69	67	60	78	52	83	61	09.5
MRD-148. Homeres, Praxedes P.	74	74	75	75	71	69	75	71	73.35
149. Ibarra, Venancio M.	60	75	74	70	74	70	80	75	71.9
150. Imperial, Monico L.	72	78	76	75	72	56	82	77	73.7
MRD-151. Ibasco, Jr., Emiilano M.	71	70	63	85	71	60	85	53	70.85
152. Inandan, Fortunato C.	77	77	67	65	73	75	79	57	72.5
153. Jimenez, Florencio C.	75	70	70	75	72	51	75	78	72.05
154. Kintanar, Woodrow M.	70	83	72	65	76	73	75	69	72.95
155. Languido, Cesar V.	63	71	63	85	70	61	85	79	70.55
156. Lavilles, Cesar L.	61	89	75	55	73	53	75	78	70.55
157. Llenos, Francisco U.	64	70	65	60	72	65	92	75	71.75
158. Leon, Marcelo D. de	63	73	60	85	76	75	90	70	72.76
159. Llanto, Priscilla	72	68	60	66	76	67	84	68	71.35
160. Machaehor, Oscar	68	59	78	70	67	57	75	75	70.15
MRD-161. Magsino, Encarnacion	77	66	70	70	76	71	75	61	72.76
MRD-162. Maligaya, Demetrio M.	70	61	75	65	75	50	91	61	72.3
163. Manlo, Gregorio	67	67	69	80	71	67	75	75	70.65
164. Puzon, Eduardo S.	72	82	60	60	69	70	68	72	68.05
MRD-165. Marcial, Meynardo R.	66	75	74	70	75	67	81	75	73.15
166. Martin, Benjamin S.	68	72	63	75	69	53	84	62	70.1
MRD-167. Monterroyo, Catalina S.	70	80	75	80	76	66	82	61	73.95
MRD-168. Montero, Leodegario C.	73	67	66	80	81	66	81	75	73.75
169. Monzon, Candido T.	70	72	74	75	67	70	77	59	72.05
170. Natividad, Alberto M.	73	79	68	65	73	69	75	79	72.2
MRD-171. Navallo, Capistrano C.	70	72	68	85	81	66	71	74	72.1
172. Nisce, Camilo Z.	66	66	75	65	79	68	85	62	73.5
MRD-173. Ocampo, Antonio F. de	76	81	76	65	74	67	75	69	73.75
174. Olaivar, Jose O.	72	70	69	65	66	70	77	75	70.5
MRD-175. Perez, Cesario Z.	75	76	66	80	72	63	82	69	72.95
176. Pogado, Causin O.	70	66	[illegible]	70	75	64	75	70	69.95
177. Ramos-Balmori, Manuela	75	73	62	65	78	59	75	66	70.2
178. Recinto, Ireneo I.	73	76	68	75	74	68	80	53	72.3
MRD-179. Redor, Francisco K.	62	77	73	75	69	64	76	69	70
MRD-180. Regis, Deogracias A.	76	74	68	65	65	65	88	75	73.35
181. Rigor, Estelita C.	67	78	61	80	71	77	79	65	70.9
MRD-182. Rimorin-Gordo, Estela	70	72	62	60	88	66	57	79	70.15
183. Rosario, Prisco del	70	64	70	70	72	73	85	57	72.65
184. Rosario, Vicente D. del	75	91	65	75	68	58	79	52	72.2
185. Saavedra, Felipe	73	80	63	75	76	73	68	52	70.35
186. Salazar, Alfredo N.	66	72	73	75	67	58	77	69	70.85
187. Salem, Romulo R.	77	81	72	65	73	60	76	75	73
188. Foz, Julita A.	75	72	75	76	65	70	76	64	72.5
189. Santa Ana, Candido T.	77	69	65	75	81	75	70	75	73
190. Santos, Aquilino	72	66	69	65	68	70	81	71	71.7
191. Santos, Valeriano V.	76	72	76	76	68	62	76	79	73.1
192. Suico, Samuel	73	79	72	75	71	59	84	55	73.3
193. Suson, Teodorico	74	68	66	80	66	59	79	67	70.35
194. Tado, Florentino P.	54	76	67	65	75	72	75	53	69.7
195. Tapayan, Domingo A.	69	72	69	70	76	73	82	79	73.75
MRD-196. Tiausas, Miguel V.	67	60	71	75	79	67	84	60	72.7
197. Torres, Carlos P.	68	71	71	70	70	63	82	71	71.5
198. Tria, Hipolito	69	72	75	60	69	64	78	66	70.05
199. Velasco, Avelino A.	65	72	75	75	71	67	78	76	72.1
200. Vila, Francisco C.	65	80	73	75	68	79	65	75	70.2
201. Villagonzalo, Job R.	78	67	74	65	72	51	69	71	70.25
202. Villarama, Jr., Pedro	76	74	75	55	76	66	67	75	71.45

1953	Civ.	Land	Mere.	Int.	Pol.	Crim.	Rem.	Leg.	Gen. Av.
203. Abacon, Pablo	75	72	78	81	78	72	64	55	72.7
MRP-204. Abad, Agapito	73	76	73	85	75	63	62	75	70.95
MRP-205. Abella, Ludovico B.	70	81	76	81	70	65	77	58	72.7
MRP-206. Abellera, Geronimo F.	75	79	79	87	76	51	63	70	71.7
MRP-207. Abenojar, Agapito N.	71	72	78	84	70	75	69	70	72.9
208. Alandy, Doroteo R.	64	83	93	91	68	59	50	60	71.2
209. Alano, Fabian T.	70	83	61	83	72	87	72	70	71.9
MRP-210. Alcantara, Pablo V.	71	79	80	81	73	70	72	52	73.65
211. Arcangel, Agustin Ag.	75	86	71	73	76	65	68	65	71.85
212. Acosta, Dionisio N.	75	81	78	87	56	65	77	70	72.8
MRP-213. Abinguna, Agapito C.	66	85	80	84	75	58	76	76	73.55
214. Adove, Nehemias C.	78	86	78	77	65	78	69	62	73.55
215. Adrias, Inocencio C.	76	83	61	88	76	67	79	75	73.4
216. Aglugub, Andres R.	75	83	73	88	72	62	72	62	72.55
217. Andrada, Mariano L.	76	85	65	87	63	77	75	77	73
MRP-218. Almeda, Serafin V.	72	72	75	81	61	67	73	65	70.75
219. Almonte-Peralta, Felicidad	73	71	72	91	75	67	55	53	70.7
MRP-220. Amodia, Juan T.	75	79	68	85	62	64	75	78	71.4
MRP-221. Antonio, Felino A.	71	76	81	83	79	62	72	70	73.3
MRP-222. Antonio, Jose S.	75	92	90	68	65	54	68	60	73.76
223. Añonuevo, Ramos B.	71	87	78	81	64	63	74	76	72.7
224. Aquino, S. Rey A.	67	77	57	78	69	70	69	80	67.7
225. Arteche, Filomeno D.	78	83	50	89	76	77	70	70	70.8
MRP-225. Arribas, Isaac M.	75	78	70	81	73	70	67	78	72.2
MRP-227. Azucena, Ceferino D.	72	67	78	89	72	67	77	65	72.95
228. Atienza, Ricardo	72	87	70	79	65	55	75	75	70.85
229. Balacuit, Camilo N.	76	78	89	75	70	54	66	75	73.3
MRP-230. Baelig, Cayetano S.	77	84	83	80	69	70	61	65	73
231. Balcita, Oscar C.	75	77	79	90	64	60	67	50	70.65
232. Barilea, Dominador Z.	71	67	82	77	64	61	65	80	70.5
MRP-233. Banta, Jose Y.	75	80	77	81	75	63	71	75	73.95
MRP-234. Barrientos, Ambrosio D.	76	70	67	80	67	65	70	81	70.7
235. Batucan, Jose M.	66	76	78	88	62	76	67	78	71.2
236. Bautista, Atilano C.	70	82	84	85	58	61	71	62	71.25
237. Bautista, Celso J.	71	68	63	87	80	67	80	70	72.75
238. Bederon, Jose	76	81	76	92	70	66	67	62	72.65
MRP-239. Belo, Victor B.	76	77	64	73	75	71	76	76	72.85
MRP-240. Bejec, Conceso D.	79	80	73	82	63	77	75	50	73.15
MRP-241. Beltran, Gervasio M.	72	75	81	73	75	57	75	80	73.95
MRP-242. Benaojan, Robustiano O.	74	84	77	84	75	63	68	62	72.85
MRP-243. Beriña, Roger C.	70	80	79	79	68	72	64	78	71.85
MRP-244. Bihis, Marcelo M.	75	86	65	92	64	64	84	75	73.45
MRP-245. Binaoro, Vicente M.	73	69	78	83	73	59	70	82	72.75
MRP-246. Bobila, Rosalio B.	76	86	76	83	68	59	71	78	73.05
247. Buenafe, Avelina R.	78	80	75	75	70	55	72	80	72.75
248. Bueno, Anastacio F.	73	78	71	78	71	67	71	60	71.16
249. Borres, Maximino L.	67	85	62	91	72	63	76	80	70.9
MRP-250. Cabegin, Cesar V.	72	71	76	76	74	70	71	60	72.2
MRP-251. Cabello, Meleeio F.	72	78	78	89	68	70	67	71	70.5
MRP-252. Cabrera, Irineo M.	79	88	53	91	71	85	75	76	73.3
253. Cabreros, Paulino N.	71	79	83	84	60	62	71	50	70.85
254. Calayag, Florentino R.	69	79	55	88	69	75	68	76	70.5
MRP-255. Calzada, Cesar de la	76	72	80	67	62	71	56	62	70.85
256. Canabal, Isabel	70	82	81	77	78	51	75	75	73.7
MRP-257. Cabugao, Pablo N.	76	87	59	80	58	64	78	76	71.8
258. Calañgi, Mateo C.	73	93	71	87	70	66	69	62	71.8
259. Canda, Benjamin S.	72	71	77	90	62	75	56	82	71.95
260. Cantoria, Eulogio	71	80	71	89	70	65	72	75	71
261. Capacio, Jr., Conrado	67	78	71	90	55	75	72	60	70.56
262. Capitulo, Alejandro P.	75	70	53	87	78	53	76	91	71.2
MRP-263. Calupitan, Jr., Alfredo	75	93	81	75	64	75	68	55	73.15
MRP-264. Caluya, Arsenio V.	75	86	70	87	77	52	77	82	73.9
MRP-265. Campanilla, Marlano B.	80	75	78	77	73	71	63	75	73.65
MRP-266. Campos, Juan A.	66	85	83	84	67	61	80	57	73.25
267. Cardoso, Angelita C.	78	71	73	75	79	56	69	60	71.8
268. Cartagena, Herminio R.	71	72	65	89	64	73	80	70	71.66
MRP-269. Castro, Daniel T.	65	75	77	76	85	60	76	59	73.15
270. Cauntay, Caudenelo V.	70	78	72	73	77	69	64	80	71.2
271. Castro, Pedro L. de	70	68	69	87	76	75	72	70	72.36
272. Cerio, Juan A.	75	82	75	86	60	54	76	75	71.75
173. Colorado, Alfonso R.	68	76	80	74	77	66	67	80	72.0

1952	Civ.	Land	Mere.	Int.	Pol.	Crim.	Rem.	Leg.	Gen. Av.
274. Chavez, Doroteo M.	73	65	79	84	73	69	66	84	73.1
276. Chavez, Honorato A.	77	76	79	86	74	63	71	75	73.65
MRP-276. Cobangbang, Orlando B.	69	81	74	82	76	61	78	80	73.85
277. Gortez, Armando R.	78	60	88	86	60	66	69	64	73.1
278. Grisostomo, Jesus L.	76	87	74	76	62	55	76	66	71.45
MRP-279. Cornejo, Grisanto R.	68	87	78	86	79	50	80	60	73.7
MRP-280. Gruz, Raymundo	75	81	79	85	72	57	68	75	72.95
MRP-281. Gunanan, Jose C.	78	92	63	83	76	72	68	66	72.4
282. Gunanan, Salvador F.	70	82	64	92	67	75	73	76	71.46
283. Gimafranca, Agustin B.	71	76	76	80	70	71	75	71	73.35
284. Grisol, Getulio R.	70	91	78	85	68	55	71	50	70.8
MRP-285. Dusi, Felicisimo R.	76	82	69	82	66	62	80	71	72.85
MRP-286. Datu, Alfredo J.	70	76	72	86	80	55	68	79	71.5
287. Dacuma, Luis B.	71	67	87	83	71	50	65	70	71.25
MRP-288. Degamo, Pedro R.	73	80	82	74	80	67	67	67	73.65
289. Delgado, Vicente N.	70	84	82	84	77	52	73	50	72.65
MRP-290. Diolazo, Ernesto A.	75	83	86	73	54	54	75	75	72.25
291. Dionisio, Jr., Guillermo	73	84	64	89	71	78	75	66	72.8
MRP-292. Dichoso, Alberto M.	71	77	71	81	69	75	80	70	73.65
MRP-293. Dipasupil, Claudio R.	70	76	82	73	79	70	72	56	73.9
MRP-294. Delgado, Abner	75	84	63	67	64	60	70	72	68.36
MRP-295. Domingo, Dominador T.	70	69	81	82	63	63	71	76	72.2
296. Ducusin, Agapito B.	70	78	63	88	76	77	62	76	68.05
MRP-297. Duque, Antonio S.	75	77	78	86	76	72	64	75	73.9
298. Duque, Castulo	75	80	73	83	66	67	65	66	70.65
299. Ebbah, Percival B.	70	80	86	76	66	63	76	75	73.96
300. Edisa, Sulpicio	65	77	75	89	75	62	75	66	72
301. Edradan, Rosa C.	70	75	84	84	71	69	69	86	73.4
MRP-302. Enage, Jacinto N.	66	70	88	93	72	67	66	75	73.2
MRP-303. Encarnacion, Alfonso B.	75	86	73	81	63	77	69	75	72.65
304. Encarnacion, Cesar	65	78	58	68	66	64	76	78	67.1
305. Estoista, Agustin A.	78	76	74	86	58	67	70	76	71.7
MRP-306. Fabros, Jose B.	66	75	80	82	80	71	67	70	73.05
MRP-307. Fajardo, Balbino P.	77	69	82	83	65	60	76	75	73.9
308. Fajardo, Genaro P.	70	79	77	79	79	50	73	75	72.5
309. Evangelista, Felicidad P.	75	75	72	87	63	63	77	70	72.15
310. Familara, Raymundo Z.	68	75	87	83	64	65	68	66	71.85
311. Fariñas, Dionisio	70	78	89	66	65	75	70	50	72.75
312. Favila, Hilario B.	71	84	74	70	76	67	73	69	72.2
MRP-313. Feliciano, Alberto I.	71	69	70	85	69	81	72	70	72.25
MRP-314. Fernando, Lope F.	73	77	86	79	70	76	64	60	73
MRP-315. Flores, Dionisio S.	78	72	77	83	67	60	68	73	72.05
MRP-316. Fortich, Benjamin B.	70	82	70	70	78	65	64	75	70.36
MRP-317. Fuente, Jose S. de la	76	83	72	74	60	71	79	79	73.65
318. Formantes, Nasario S.	72	79	71	77	68	61	76	60	70.9
MRP-319. Fuggan, Lorenzo B.	76	81	74	69	71	71	73	60	72.85
320. Gabuya, Jesus S.	70	83	82	83	70	63	75	65	73.76
321. Galang, Victor N.	69	83	84	76	70	67	71	60	71.96
322. Gaerlan, Manuel L.	73	87	77	90	67	61	72	76	73.15
323. Galem Nestor R.	72	79	86	78	60	61	75	70	73.05
324. Gallardo, Jose Pe B.	75	88	76	75	63	70	70	65	71.85
MRP-325. Gallos, Cirilo B.	70	78	84	91	80	51	65	70	72.85
326. Galindo, Eulalio D.	70	89	87	65	78	71	62	62	73.4
327. Galman, Patroeinio G.	72	72	80	85	71	66	70	53	71.15
328. Gamalinda, Garlos S.	76	79	81	86	67	63	69	56	72.56
329. Gamboa, Antonio G.	71	67	70	72	76	60	75	68	70.95
330. Gannod, Jose A.	69	80	75	81	68	62	73	68	71.25
MRP-331. Garcia, Matias N.	67	78	74	90	79	59	76	65	72.8
MRP-332. Ganete, Garmelo	75	87	77	82	74	57	68	81	73.3
333. Gilbang, Gaudioso R.	75	67	80	82	67	57	64	70	70.6
334. Gofredo, Glaro G.	68	78	72	86	78	62	70	76	70.9
335. Gomez, Jose S.	71	76	71	81	76	63	69	62	70.85
MRP-336. Gosiaoco, Lorenzo V.	68	93	85	78	64	69	70	64	72.36
MRP-337. Gonzales, Rafael C.	77	75	71	89	55	70	70	60	70.05
MRP-338. Gracia, Eulalia L. de	66	68	00	84	77	59	69	65	73.3
339. Grageda, Jose M. A.	70	85	72	67	70	60	73	73	70.75
340. Guzman, Juan de	76	86	69	84	64	79	75	76	73.6
MRP-341. Guzman, Mateo de	76	79	79	73	72	69	68	80	73.9
342. Guzman, Salvador B.	71	61	74	72	61	66	78	75	70.75
343. Guzman, Salvador T. de	75	84	64	81	74	61	73	55	71.75
344. Habelito, Geronimo E.	71	76	71	87	73	60	67	65	69.65
345. Hedriana, Naterno G.	75	68	84	76	66	58	76	60	72.9
846. Hernandez, Quintin B.	67	75	72	81	72	72	66	76	70.6

1952	Civ.	Land	Merc.	Int.	Pol.	Crim.	Rem.	Leg.	Gen. Av.
347. Homeres, Agustin R.	73	84	65	86	70	77	63	76	70.7
348. Ines Leonilo F.	65	88	71	88	77	73	61	70	70.55
349. Jamer, Alipio S.	68	75	83	89	80	61	65	50	72
MRP-350. Ibasco, Jr., Emiliano M.	75	66	68	85	76	70	83	54	73.8
MRP-351. Jardinico, Jr., Emilio	73	86	72	78	82	67	67	64	72.8
MRP-362. Jaen, Justinlano F.	76	75	78	84	71	66	70	77	73.85
353. Jaring, Antonio S.	72	77	79	70	72	57	71	50	70.75
MRP-354. Javier, Aquilino M.	75	84	79	78	77	61	66	66	73.05
355. Jomuad, Francisco	75	75	72	88	78	58	76	43	72.4
MRP-356. Jose, Nestor L.	78	61	64	73	68	76	64	80	69.7
357. La O, Jose M.	75	71	76	72	70	67	81	59	73.5
358. Leon, Brigido C. de	67	75	78	92	78	51	72	80	72.56
359. Leones, Constante B.	68	81	79	84	73	60	77	60	73
360. Liboro, Horacio T.	72	69	80	87	73	62	70	61	72.4
361. Llanera, Cesar L.	77	81	80	78	64	69	76	63	73
362. Lomontod, Jose P.	75	76	69	70	73	76	74	75	73.2
363. Luna, Lucito	70	75	69	83	55	63	74	75	68.4
MRP-364. Luz, Lauro L.	76	90	78	88	64	58	76	77	73.95
MRP-365. Macasaet, Tomas S.	73	81	72	83	66	75	72	70	72.5
366. Magbiray, Godofredo V.	80	67	84	76	70	62	66	68	73.05
367. Majarais, Rodolfo P.	70	62	64	82	88	75	71	79	72.85
MRP-368. Makabenta, Eduardo	75	90	77	83	59	71	72	78	73.3
MRP-369. Malapit, Justiniano S.	74	83	74	89	58	60	72	76	71.1
370. Malolos, Iluminado M.	70	87	73	76	77	60	76	76	72.3
371. Maniquis, Daniel R.	75	80	73	91	69	71	65	70	72.1
372. Maraña, Arsenio	65	79	60	72	73	51	75	86	67.9
373. Marasigan, Napoleon	75	71	83	75	69	62	69	70	72.75
MRP-374. Marco, Jaime P.	75	67	74	76	64	75	75	57	71.9
MRP-375. Martir, Osmundo P.	70	86	76	78	72	71	75	53	72.95
MRP-376. Masancay, Amando E.	73	87	75	77	72	50	78	80	73.2
MRP-377. Mati-ong, Ignacio T.	62	87	72	79	73	76	69	77	71.3
378. Mara, Guillermo L.	70	78	78	89	75	67	66	65	72.35
MRP-379. Mercado, Felipe A.	73	77	82	82	78	52	69	85	73.9
MRP-380. Miculob, Eugenio P.	70	82	73	86	77	62	79	65	72.8
381. Mison, Rafael M. Jr.,	79	78	73	75	71	68	69	53	71.95
MRP-382. Monponbanua, Antonio D.	79	79	68	88	64	78	69	83	73.1
MRP-383. Montero, Leodegario C.	72	89	69	89	70	68	70	76	72.15
384. Morada, Servillano S.	75	76	67	71	65	66	75	76	70.9
385. Mocorro, Generoso	78	84	78	84	60	73	68	70	73
MRP-386. Mosquera, Estanislao L.	75	78	75	85	72	55	77	66	73.15
387. Motus, Rodentor P.	80	78	70	94	72	75	70	57	73.75
388. Macario, Pedro R.	70	67	74	86	78	63	72	66	72.15
MRP-389. Nadela, Geredion T.	72	64	64	81	73	50	75	75	69.16
MRP-390. Nazareno, Romeo P.	67	70	71	76	76	79	76	57	72.05
391. Nieto, Benedicto S.	69	79	77	77	72	62	76	76	72.9
MRP-392. Noguera, Raymundo	71	86	81	80	73	66	72	70	73.15
MRP-393. Nodado, Domiciano R.	70	70	69	73	67	37	64	72	63.6
394. Nono, Pacifico G.	67	77	78	67	75	59	71	76	71.35
MRP-395. Nuval, Manuel R.	78	72	67	90	72	68	78	67	73.65
396. Ocampo, Augusto	75	90	77	72	69	55	65	67	60.7
397. Oliveros, Amado A.	72	75	68	72	84	50	75	79	71.9
398. Opiña, Jr., Pedro	76	77	74	67	73	66	68	70	71.85
MRP-399. Olaivar, Jose O.	70	62	85	81	74	50	68	79	71.8
MRP-400. Olandesca, Per O.	70	91	76	87	72	66	70	79	73.45
401. Orden, Apolonio J.	72	65	84	86	66	50	72	68	71.45
402. Ortiz, Melencio T.	71	75	78	81	66	67	70	78	72.1
MRP-403. Pablo, Fedelino S.	72	64	76	86	72	61	76	75	72.95
404. Pacifico, Vicente V.	76	79	69	80	76	52	72	80	71.95
MRP-405. Paderna, Perfecto D.	75	69	72	75	78	58	75	70	72.6
406. Padlan, Crispin M.	71	66	76	79	68	67	74	66	71.65
407. Padilla, Jose C.	70	65	67	82	78	76	78	75	73.3
408. Padilla, Jr., Estanislao E.	71	88	78	86	59	75	78	50	72.95
MRP-409. Palma, Bartolome	67	81	80	82	71	75	69	75	73.25
MRP-410. Papa, Angel A.	75	72	35	85	77	59	63	71	73.45
MRP-411. Parayno, Mario V.	71	88	74	89	69	66	76	73	73.65
312. Pariña, Santos L.	70	87	85	77	64	67	63	76	71.85
MRP-413. Pasion, Anastacio	63	80	68	81	82	79	76	58	72.55
414. Pastrana, Rizal R.	69	76	71	76	68	63	77	83	71.65
MRP-415. Paulin, Jose O.	70	66	80	87	75	50	65	80	70.9
MRP-416. Pelaez, Jr., Vicente C.	79	87	73	83	69	71	68	65	73.2
417. Peña, Jesus	75	75	75	62	75	70	60	66	70.4
418. Perez, Toribio R.	71	64	81	02	69	58	67	70	71.25
419. Pestaño, Melquiades	77	81	74	87	50	68	76	75	73.2

1952	Civ.	Land	Mere.	Int.	Pol.	Crim.	Rem.	Leg.	Gen. Av.
MRP-420. Pido, Serafin C.	77	81	72	82	59	71	50	75	71.15
421. Pinlac, Filemon	57	76	74	86	65	79	65	72	70.55
422. Poblete, Celso B.	72	79	82	76	66	64	74	50	72.15
MRP-423. Piza, Luz	68	70	75	87	74	57	54	75	70.8
424. Puzon, Eduardo S.	72	80	81	69	72	53	57	70	71.05
425. Quetulio, Josefina D.	75	90	60	93	64	78	76	83	72.9
MRP-426. Quipanes, Melchor V.	69	88	79	82	65	62	71	56	71.55
MRP-427. Quietson, Bayani R.	73	75	76	77	70	81	71	53	72.85
428. Racho, Macario D.	68	75	81	82	78	53	66	54	70.56
429. Ramirez, Sabas P.	71	80	73	87	52	62	75	80	71.65
MRP-430. Raffiñan, Jose A.	80	83	79	79	62	72	68	65	73.25
MRP-431. Ramos, Patricio S.	75	87	76	76	72	72	61	75	72.25
MRP-432. Ramos-Balmori, Manuela	78	84	76	90	48	75	80	65	73.45
MRP-433. Raro, Celso	75	81	76	67	75	77	65	77	71.4
MRP-434. Reyos, Victor S.	75	86	79	91	71	67	57	70	73.9
435. Revilla, Mariano S.	75	78	81	90	70	54	59	81	73.35
436. Reyes, Abdon L.	72	64	81	78	76	73	69	53	72.85
437. Reyes, Domingo B.	72	87	78	83	72	75	62	70	72.7
438. Reyes, Francisco M.	75	85	84	58	75	71	58	50	73.9
439 Reyes, Lozano M.	80	57	78	79	78	65	64	79	73.35
MRP-440. Reyes, Oscar R.	75	75	82	82	76	64	68	60	73.66
441. Rigonan, Cesar V.	71	85	65	86	76	70	76	70	72.7
442. Rivera, Honorio	71	56	70	90	71	65	75	71	71.2
MRP-443. Rivero, Buenaventura A.	72	88	72	94	68	73	66	80	72.6
MRP-444. Robles, Enrique	75	77	75	77	82	64	69	70	73.7
445. Rodriguez, Orestes Arellano	76	75	76	63	69	77	65	78	72.25
446. Roldan, Jose V.	67	80	79	83	73	71	75	70	73.9
447. Rosario, Adelaida R. del	80	75	65	70	68	72	80	70	73.15
448. Rosario, Restituto F. del	75	75	79	90	68	65	66	63	72.1
MRP-449. Sabelino, Conrado S.	71	81	69	75	77	71	75	70	72.95
450. San Juan, Damaso	77	86	72	89	59	76	65	72	71.6
451. Sañiel, Felix L.	72	93	76	80	67	75	66	62	72.1
452. Samaniego, Jesus B.	75	80	76	72	60	67	68	70	70.5
MRP-453. Sandoval, Emmanuel M.	75	83	70	83	77	67	77	60	73.95
MRP-454. Sanidad, Emmanuel Q.	71	75	81	90	62	54	76	68	72.95
455. Santiago, Jr., Cristobal	75	76	84	93	63	65	59	70	71.8
456. Santillan, Juanito Ll.	76	89	83	83	63	58	65	52	71.25
MRP-457. Santos, Rodolfo C.	75	75	78	82	73	76	66	70	73.7
MRP-458. Santos, Ruperto M.	67	54	69	76	63	64	71	60	66.75
MRP-459. Santos, Aquilino C.	72	71	73	79	73	79	71	85	73.8
MRP-460. Santos, Rufino A.	75	81	79	85	74	72	66	54	73.3
461. Suanding, Bantas	75	67	67	92	79	59	76	76	73.1
MRP-462. Sulit, Feliz M.	76	79	76	78	72	75	68	67	73.5
463. Songco, Felicisimo G.	70	68	82	84	60	69	76	65	73.35
464. Soriano, Aniceto S.	64	79	77	80	80	53	70	65	70.7
465. Suarez, Pablo D.	73	85	70	87	76	70	64	70	71.9
MRP-466. Sybico, Jesus L.	79	70	70	72	75	75	72	60	73.05
467. Tabaque, Benjamin R.	69	68	77	79	74	68	72	60	71.85
MRP-468. Tan Kiang, Clarita	81	79	72	80	62	75	73	80	73.95
MRP-469. Tando, Amado T.	71	82	78	83	71	51	71	60	72
470. Tasico, Severo E.	71	69	75	89	70	75	67	63	71.55
471. Tiburcio, Ismael P.	73	82	72	93	76	57	58	54	71.15
MRP-472. Tiongson, Federico T.	70	70	76	84	77	75	75	50	73.45
MRP-473. Tolentino, Jesus C.	75	89	63	84	85	73	73	50	73.4
474. Torrijas, Alfredo A.	77	66	67	83	68	76	71	53	71.3
MRP-475. Tobias, Artemio M.	69	58	74	81	71	55	65	57	57.55
MRP-476. Trillana, Jr., Apolonio	76	85	76	86	70	68	75	60	73.8
MRP-477. Trinidad, Manuel O.	66	91	83	75	53	66	67	65	70.8
478. Trinidad, Pedro O.	66	78	78	85	78	51	64	76	70.3
MRP-479. Udarbe, Flavio J.	80	82	77	82	67	56	58	75	72.5
480. Umali, Osmundo C.	68	75	81	80	71	69	68	50	71.7
481. Umayam, Juanito C.	77	75	87	86	56	56	66	50	71
MRP-482. Usita, Gelacio U.	75	72	75	74	73	76	71	70	73.55
483. Valino, Francisco M.	72	81	80	84	62	78	71	75	73.7
484. Varela, Dominador M.	57	75	81	86	72	57	81	70	73.85
485. Vega, Macairog L. de	78	62	79	37	70	70	71	55	73.8
MRP-486. Velasco, Emmanuel D.	71	80	74	85	60	66	76	75	71.85
487. Velez, Maria E.	73	70	80	80	56	50	72	57	71.05
MRP-488. Venal, Artemio V.	78	91	58	67	76	55	75	73	73.65
489. Venus, Conrado B.	69	81	74	85	62	66	72	77	77.05
MRP-490. Verzosa, Federico B.	75	79	72	88	76	68	74	69	73.7
MRP-491. Villafuerte, Eduardo V.	75	83	70	75	64	64	75	65	71.2
MRP-492. Villanueva, Cecilio C.	75	85	79	88	66	77	57	70	73.95
493. Villar, Custodio R.	73	69	70	88	76	66	69	50	70.75

1952	Civ.	Land	Merc.	Int.	Pol.	Crim.	Rem.	Leg.	Gen. Av.
MRP-494. Villaseñor, Leonidas F.	80	85	67	77	62	75	76	73	73.15
495. Viterbo, Jose H.	80	77	65	93	70	65	55	55	70.65
496. Yaranon, Pedro	70	77	76	85	72	50	75	75	71.85
MRP-497. Yasay, Mariano R.	75	75	72	76	63	77	70	60	71.1
MRP-498. Ygay, Venancio M.	73	80	83	84	62	59	72	77	72.65
499. Yulo, Jr., Teodoro	73	82	78	75	60	81	75	76	73.95
500. Zamora, Alberto	70	55	76	79	52	77	69	82	71.3
501. Rigonan, Felipe C.	70	79	69	89	76	62	71	64	71.2

A list of those who petitioned for the consolidation of their grades in subjects passed in previous examinations, showing the years in which they took the examinations together with their grades and averages, and those who had filed motions for reconsideration which were denied, indicated by the initials MRD, follows:

PETITIONERS UNDER SECTION 2 OF REPUBLIC ACT No. 972

	Civ.	Land	Merc.	Int.	Pol.	Crim.	Rem.	Leg.	Gen. Av.
1. Amao, Sulpicio M.									
1946	68	67	76	76	78	73	49	50	66.5
1950	59	80	57	77	62	80	71	67	67.4
2. Baldo, Olegario Ga.									
1951	65	76	68	55	59	53	75	72	64.9
1952	65	58	75	84	72	69	73	67	69.75
1953	57	74	58	68	76	62	71	76	66.7
3. Blanco, Jose B.									
MRD-1949	75	75	70	75	77	76	60	90	72.15
1961	64	71	58	65	58	70	75	71	56.96
4. Condeno, Mateo									
1950	71	80	52	75	75	81	56	92	59.3
1951	70	60	61	65	77	64	57	81	57.86
5. Ducusin, Agapito B.									
MRD-1949	69	70	76	73	75	71	55	60	68.65
1960	60	71	65	57	57	76	66	89	53.1
5. Garcia, Manuel N.									
MRD-1949	60	70	82	79	70	59	60	80	60.26
1950	57	65	61	69	54	85	66	84	50.3
7. Luna, Lucito A.									
1946	63	53	59	76	76	75	57	69	65.56
1952	70	75	59	83	59	53	74	76	58.4
8. Maraña, Arsenio S.									
1949	72	58	68	76	75	72	60	75	69.35
1952	65	79	69	72	73	51	75	86	57.9
9. Montano, Manuel M.									
1951	61	60	58	60	70	63	75	64	64.8
1952	70	77	65	79	56	52	70	50	56.4
1953	78	64	65	68	81	50	71	78	70.55
10. Peña, Jesus S.									
1950	25	75	45	75	45	52	46	71	46.2
1951	74	61	62	65	69	55	75	57	68.2
1952	75	75	75	62	75	70	60	66	70.4
11. Placido, Sr., Isidro									
1950	68	78	70	75	69	70	58	69	67.75
1951	65	62	75	60	73	57	75	71	69.3
12. Rementizo, Filemon S.									
1949	65	75	72	75	60	75	55	85	55.55
1951	68	57	48	60	91	66	55	75	64.05
1952	68	53	68	67	58	56	75	64	55.7
13. Rivera, Eulogio J.									
1952	67	80	51	69	69	77	73	53	66.35
1953	65	67	78	74	75	62	69	80	70.9
14. Rodulfa, Juan T.									
1951	67	60	70	65	68	56	75	66	67.75
1952	70	71	67	78	67	75	71	70	70.1

	Civ.	Land	Merc.	Int.	Pol.	Crim.	Rem.	Leg.	Gen. Av.
15. Sanchez, Juan J.									
1948	39	69	82	75	76	72	55	50	63.5
MRD–1949	67	56	69	75	72	77	60	75	68
1951	70	59	55	60	68	57	78	67	65.8
16. Santos, Constantino									
1952	62	76	54	82	72	77	66	65	66.65
1953	73	71	70	66	78	64	65	78	70.4
17. Santos, Salvador H.									
1951	60	64	55	70	65	52	70	75	62.85
1952	75	64	70	81	76	55	61	75	69.1
1953	70	71	79	65	72	54	66	80	70
18. Sevilla, Macario C.									
MRD–1948	60	64	76	66	66	69	60	52	63.1
MRD–1949	47	66	78	64	71	86	65	85	68
1950	35	65	40	75	63	57	27	49	45
MRD–1951	68	59	72	55	69	65	75	75	69.3
1953	70	73	74	70	81	56	69	71	71.05

Finally, with regards to the examinations of 1953, while some candidates—85 in all—presented motions for reconsideration of their grades, others invoked the provisions of Republic Act No. 972. A list of those candidates separating those who filed mere motions for reconsideration (56) from those who invoked the aforesaid Republic Act, is as follows:

1953 PETITIONERS FOR RECONSIDERATION

	Civ.	Land	Merc.	Int.	Pol.	Crim.	Rem.	Leg.	Gen. Av.
1. Acenas, Calixto R.	73	70	68	62	82	51	67	77	73.45
2. Alcantara, Pedro N.	67	70	75	85	87	54	71	80	72.8
3. Alejandro, Exequiel	67	72	71	75	80	76	75	77	73.4
4. Andres, Gregorio M.	70	73	86	58	79	50	71	78	72.7
5. Arnaiz, Antonio E.	66	80	76	68	79	68	77	81	73.4
6. Asis, Floriano U. de	66	78	75	81	77	55	73	69	71.25
7. Bacalso, Celestino M.	71	65	76	68	76	50	75	70	70.95
8. Bala, Florencio F.	64	82	47	70	82	58	75	82	67
9. Baldo, Olegario A.	57	74	68	68	76	52	71	76	68.7
10. Barrios, Benjamin O.	65	71	76	75	80	62	83	73	73.95
11. Buhay, Eduardo L.	73	76	71	91	76	61	74	78	73.35
12. Burgos, Dominador C.	72	80	89	61	66	37	69	68	70.05
13. Cariño, Eldo J.	79	81	60	75	74	74	76	74	73
14. Casar, Dimapuro	67	73	84	79	77	61	71	74	73.35
15. Castañeda, Gregorio	70	73	80	71	75	70	73	78	73.95
16. Estrellado, Benjamin R.	67	79	64	73	82	62	71	74	70.2
17. Fabunan, Edilberto C.	70	72	68	69	77	60	76	74	71.1
18. Feril, Domingo B.	75	71	84	65	70	60	65	70	71.6
19. Fernandez, Alejandro Q.	65	75	87	80	81	63	61	80	72.8
20. Gapus, Rosita S. (Miss)	76	80	86	77	64	74	66	69	73.9
21. Garcia, Rafael B.	70	86	70	75	73	63	73	75	71.65
22. Gracia, Miguel L. de	73	68	75	59	80	51	72	71	71
23. Gungon, Armando G.	68	76	76	84	77	57	77	83	73.6
24. Gutierrez, Antonio S.	68	77	66	70	72	59	71	74	69.1
25. Tejay, Abraham I.	77	70	76	77	81	62	70	68	73.7
26. Leon, Benjamin La. de	66	66	75	70	77	55	71	82	70.35
27. Lugtu, Felipe L.	62	70	78	65	78	66	69	81	69.9
28. Lukman, Abdul-Hamid	76	64	67	69	73	59	73	75	70.45
29. Maloles, Jr., Benjamin G.	77	76	68	68	71	51	75	78	70.85
30. Maloles, Julius G.	77	71	60	71	79	62	68	72	69.75
31. Mandi, Santiago P.	65	76	70	61	79	68	75	72	71.1
32. Margete, Rufino C.	70	76	66	75	85	73	71	75	72.75
33. Melocoton, Nestorio B.	70	81	73	78	83	52	72	75	72.35
34. Molina, Manuel C.	75	78	70	61	75	63	66	85	70.95
35. Muñoz, Mariano A.	75	89	86	67	74	57	68	76	73.75
36. Navarro, Buenaventura M.	80	75	65	75	83	55	78	79	78
37. Nodado, Domiciano R.	60	67	67	50	70	50	56	75	61.7
38. Papas, Sisenando B.	65	62	71	61	70	56	66	67	66
39. Pagulayan-Sy, Fernando	68	75	71	62	82	67	76	79	70.4

	Civ.	Land	Merc.	Int.	Pol.	Crim.	Rem.	Leg.	Gen. Av.
40. Padula, Benjamin C.	70	77	54	62	74	78	75	68	69.05
41. Pasno, Enrique M.	78	72	66	54	71	58	72	78	69.85
42. Peña, Jr., Narciso	70	95	81	78	67	66	67	73	72.55
43. Peralta, Rodolfo P.	70	70	52	81	68	63	59	69	68.7
44. Pigar, Leopoldo R.	76	75	78	61	72	72	71	79	73.75
45. Publico, Paciano L.	68	69	76	76	70	59	74	67	70.6
46. Radaza, Leovigildo	75	78	76	61	77	60	71	86	72.2
47. Ramos, Bernardo M.	64	62	75	93	81	52	66	80	70.1
48. Rabaino, Andres D.	68	72	75	73	78	55	69	76	70.65
49. Ravanera, Oscar N.	70	77	80	71	82	62	69	78	73.6
50. Renovilla, Jose M.	65	75	80	68	79	52	62	78	69.5
51. Sabaot, Solomon B.	69	73	80	69	82	69	69	79	73.85
52. Sumaway, Ricardo S.	66	76	69	76	74	56	72	68	69.1
53. Torrefiel, Sofronio O.	70	77	74	75	73	50	68	72	69.55
54. Vera, Federico V. de	60	61	47	77	69	50	67	77	60.9
55. Viray, Venancio Bustos	65	67	67	52	73	64	71	65	67.15
56. Ylaya, Angela P. (Miss)	63	70	56	75	68	54	70	77	64.5
PETITIONERS UNDER REPUBLIC ACT NO. 972									
1. Ala, Narciso	70	71	73	59	73	74	81	77	73.5
2. Alcantara, Pedro N.	67	70	75	85	87	54	71	80	72.8
3. Arellano, Antonio L.	74	66	73	60	78	63	78	72	72.9
4. Buhay, Eduardo L.	73	76	71	91	76	61	74	78	73.35
6. Calautit, Celestino R.	71	78	84	75	76	61	68	72	73.2
6. Casuncad, Sulvio P.	61	73	82	69	81	68	71	84	73.05
7. Enriquez, Pelagio y Concepcion	84	69	76	75	82	50	68	79	72.05
8. Estonina, Severino	80	74	64	89	81	56	68	82	72.4
9. Fernandez, Alejandro Q.	65	76	87	80	81	63	61	80	72.8
10. Fernandez, Luis N.	70	76	77	75	78	67	72	73	73.36
11. Figueroa, Alfredo A.	70	75	87	78	76	50	68	68	72.3
12. Formilleza, Pedro	65	75	89	68	83	61	70	75	73.25
13. Garcia, Manuel M.	69	68	83	83	73	62	62	70	71
14. Grospe, Vicente E.	68	65	78	66	79	61	69	82	71.6
15. Galema, Nestor R. (1952)	72	79	86	78	60	61	75	70	73.05
16. Jacobo, Rafael F.	76	76	75	74	76	50	72	76	72.8
17. Macalindong, Reinerio L.	67	77	79	79	74	72	68	77	72.76
18. Mangubat, Antonio M.	70	70	78	61	80	74	62	70	71.45
19. Montano, Manuel M.	78	64	66	68	81	60	71	78	70.65
20. Plomantes, Marcos	73	67	74	58	68	70	76	71	71.6
21. Ramos, Eugenio R.	70	80	76	67	72	69	72	79	72.6
22. Reyes, Juan R.	71	73	77	76	81	59	72	74	73.2
23. Reyes, Santiago R.	65	78	83	60	76	75	70	70	72.9
24. Rivera, Eulogio J.	65	67	78	74	75	62	69	80	70.9
25. Santos, Constantino P.	73	71	70	65	78	64	65	78	70.4
26. Santos, Salvador H.	70	71	79	65	72	54	66	80	70
27. Sevilla, Macario C.	70	73	74	70	81	56	69	71	71.05
28. Villavicencio, Jose A.	78	75	70	67	69	77	64	77	73.2
29. Viray, Ruperto G.	76	73	76	73	80	68	68	83	73.26

These are the unsuccessful candidates totaling 604 directly affected by this resolution. Adding 490 candidates who have not presented any petition, they reach a total of 1,094.

The Enactment of Republic Act No. 972

As will be observed from Annex I, this Court reduced to 72 per cent the passing general average in the bar examinations of August and November of 1946; 69 per cent in 1947; 70 per cent in 1948; 74 per cent in 1949; maintaining the prescribed 75 per cent since 1950, but raising to 75 per cent those who obtained 74 per cent since 1950. This caused the introduction in 1951, in the Senate of the Philippines of Bill No. 12 which was intended to amend Sections 5, 9, 12, 14 and 16 of Rule 127 of the Rules of Court,

concerning the admission of attorneys-at-law to the practice of the profession. The amendments embrace many interesting matters, but those referring to section 14 and 16 immediately concern us. The proposed amendment is as follows:

"SEC. 14. *Passing average.*—In order that a candidate may be deemed to have passed the examinations successfully, he must have obtained a general average of 70 per cent without falling below 50 per cent in any subject. In determining the average, the foregoing subjects shall be given the following relative weights: Civil Law, 20 per cent; Land Registration and Mortgages, 5 per cent; Mercantile Law, 15 per cent; Criminal Law, 10 per cent; Political Law, 10 per cent; International Law, 5 per cent; Remedial Law, 20 per cent; Legal Ethics and Practical Exercises, 5 per cent; Social Legislation, 5 per cent; Taxation, 5 per cent. Unsuccessful candidates shall not be required to take another examination in any subject in which they have obtained a rating of 70 per cent or higher and such rating shall be taken into account in determining their general average in any subsequent examinations: *Provided, however*, That if the candidate fails to get a general average of 70 per cent in his third examination, he shall lose the benefit of having already passed some subjects and shall be required to the examination in all the subjects.

"SEC. 16. *Admission and oath of successful applicants.*—Any applicant who has obtained a general average of 70 per cent in all subjects without falling below 50 per cent in any examination held after the 4th day of July, 1946, or who has been otherwise found to be entitled to admission to the bar, shall be allowed to take and subscribe before the Supreme Court the corresponding oath of office. (Arts. 4 and 5, 8, No. 12).

With the bill was an Explanatory Note, the portion pertinent to the matter before us being:

"It seems to be unfair that unsuccessful candidates at bar examinations should be compelled to repeat even those subjects which they have previously passed. This is not the case in any other government examination. The Rules of Court have therefore been amended in this measure to give a candidate due credit for any subject which he has previuosly passed with a rating of 75 per cent or higher."

Senate Bill No. 12 having been approved by Congress on May 3, 1951, the President requested the comments of this Tribunal before acting on the same. The comment was signed by seven Justices while three chose to refrain from making any and one took no part. With regards to the matter that interests us, the Court said:

"The next amendment is of section 14 of Rule 127. One part of this amendment provides that if a bar candidate obtains 70 per cent or higher in any subject, although failing to pass the examination, he need not be examined in said subject in his next examination. This is a sort of passing the Bar Examination on the installment plan, one or two or three subjects at a time. The trouble with this proposed system is that although it makes it easier and more convenient for the candidate because he may in an examination prepare himself on only one or two subjects so as to insure passing them, by the time that he has passed the last required subject, which may be several years away from the time that he reviewed and passed the first subjects, he shall have forgotten the principles and theories contained in those subjects and remembers only those of the one or

two subjects that he had last reviewed and passed. This is highly possible because there is nothing in the law which requires a candidate to continue taking the Bar examinations every year in succession. The only condition imposed is that a candidate, on this plan, must pass the examination in no more than three installments; but there is no limitation as to the time or number of years intervening between each examination taken. This would defeat the object and the requirements of the law and the Court in admitting persons to the practice of law. When a person is so admitted, it is to be presumed and presupposed that he possesses the knowledge and proficiency in the law and the knowledge of all law subjects required in bar examinations, so as presently to be able to practice the legal profession and adequately render the legal service required by prospective clients. But this would not hold true of the candidates who may have obtained a passing grade on any five subjects eight years ago, another three subjects one year later, and the last two subjects the present year. We believe that the present system of requiring a candidate to obtain a passing general average with no grade in any subject below 50 per cent is more desirable and satisfactory. It requires one to be all around, and prepared in all required legal subjects at the time of admission to the practice of law.

* * * * * * *

"We now come to the last amendment, that of section 16 of Rule 127. This amendment provides that any applicant who has obtained a general average of 70 per cent in all subjects without failing below 50 per cent in any subject in any examination held after the 4th day of July, 1946, shall be allowed to take and subscribe the corresponding oath of office. In other words, Bar candidates who obtained not less than 70 per cent in any examination since the year 1946 without falling below 50 per cent in any subject, despite their non-admission to the Bar by the Supreme Court because they failed to obtain a passing general average in any of those years, will be admitted to the Bar. This provision is not only prospective but retroactive in its effects.

"We have already stated in our comment on the next preceding amendment that we are not exactly in favor of reducing the passing general average from 75 per cent to 70 per cent to govern even in the future. As to the validity of making such reduction retroactive, we have serious legal doubts. We should not lose sight of the fact that after every bar examinations, the Supreme Court passes the corresponding resolution not only admitting to the Bar those who have obtained a passing general average grade, but also rejecting and denying the petitions for reconsideration of those who have failed. The present amendment would have the effect of repudiating, reversing and revoking the Supreme Court's resolution denying and rejecting the petitions of those who may have obtained an average of 70 per cent or more but less than the general passing average fixed for that year. It is clear that this question involves legal implications, and this phase of the amendment if finally enacted into law might have to go thru a legal test. As one member of the Court remarked during the discussion, when a court renders a decision or promulgate a resolution or order on the basis of and in accordance with a certain law or rule then in force, the subsequent amendment or even repeal of said law or rule may not affect the final decision, order, or resolution already promulgated, in the sense of revoking or rendering it void and of no effect.

"Another aspect of this question to be considered is the fact that members of the bar are officers of the courts, including the Supreme Court. When a Bar candidate is admitted to the Bar, the Supreme Court impliedly regards him as a person fit, competent and qualified

to be its officer. Conversely, when it refused and denied admission to the Bar to a candidate who in any year since 1946 may have obtained a general average of 70 per cent but less than that required for that year in order to pass, the Supreme Court equally and impliedly considered and declared that he was not prepared, ready, competent and qualified to be its officer. The present amendment giving retroactivity to the reduction of the passing general average runs counter to all these acts and resolutions of the Supreme Court and practically and in effect says that a candidate not accepted, and even rejected by the Court to be its officer because he was unprepared, undeserving and unqualified, nevertheless and in spite of all, must be admitted and allowed by this Court to serve as its officer. We repeat, that this is another important aspect of the question to be carefully and seriously considered."

The President vetoed the bill on June 16, 1951, stating the following:

"I am fully in accord with the avowed objective of the bill, namely, to elevate the standard of the legal profession and maintain it on a high level. This is not achieved, however, by admitting to practice precisely a special class who have failed in the bar examination. Moreover, the bill contains provisions to which I find serious fundamental objections.

"Section 5 provides that any applicant who has obtained a general average of 70 per cent in all subjects without falling below 50 per cent in any subject in any examination held after the 4th day of July, 1946, shall be allowed to take and subscribe the corresponding oath of office. This provision constitutes class legislation, benefiting as it does specifically one group of persons, namely, the unsuccessful candidates in the 1946, 1947, 1948, 1949 and 1950 bar examinations.

"The same provision understakes to revoke or set aside final resolutions of the Supreme Court made in accordance with the law then in force. It should be noted that after every bar examination the Supreme Court passes the corresponding resolution not only admitting to the Bar those who have obtained a passing general average but also rejecting and denying the petitions for reconsideration of those who have failed. The provision under consideration would have the effect of revoking the Supreme Court's resolution denying and rejecting the petitions of those who may have failed to obtain the passing average fixed for that year. Said provision also sets a bad precedent in that the Government would be morally obliged to grant a similar privilege to those who have failed in the examinations for admission to other professions such as medicine, engineering, architecture and certified public accountancy."

Consequently, the bill was returned to the Congress of the Philippines, but it was not repassed by ⅔ vote of each House as prescribed by section 20, article VI of the Constitution. Instead Bill No. 371 was presented in the Senate. It reads as follows:

AN ACT TO FIX THE PASSING MARKS FOR BAR EXAMINATIONS FROM 1946 UP TO AND INCLUDING 1953

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Notwithstanding the provisions of section 14, Rule 127 of the Rules of Court, any bar candidate who obtained a general average of 70 per cent in any bar examinations after July 4, 1946

up to the August 1951 bar examinations; 71 per cent in the 1952 bar examinations; 72 per cent in the 1953 bar examinations; 73 per cent in the 1954 bar examinations; 74 per cent in 1955 bar examinations without a candidate obtaining a grade below 50 per cent in any subject, shall be allowed to take and subscribe the corresponding oath of office as member of the Philippine Bar: *Provided, however,* That 75 per cent passing general average shall be restored in all succeeding examinations; and *Provided, finally,* That for the purpose of this Act, any exact one-half or more of a fraction, shall be considered as one and included as part of the next whole number.

SEC. 2. Any bar candidate who obtained a grade of 75 per cent in any subject in any bar examination after July 4, 1946 shall be deemed to have passed in such subject or subjects and such grade or grades shall be included in computing the passing general average that said candidate may obtain in any subsequent examinations that he may take.

SEC. 3. This bill shall take effect upon its approval.

With the following explanatory note:

"This is a revised Bar bill to meet the objections of the President and to afford another opportunity to those who feel themselves discriminated by the Supreme Court from 1946 to 1951 when those who would otherwise have passed the bar examination but were arbitrarily not so considered by altering its previous decisions of the passing mark. The Supreme Court has been altering the passing mark from 69 in 1947 to 74 in 1951. In order to cure the apparent arbitrary fixing of passing grades and to give satisfaction to all parties concerned, it is proposed in this bill a gradual increase in the general averages for passing the bar examinations as follows: For 1946 to 1951 bar examinations, 70 per cent; for 1952 bar examinations, 71 per cent; for 1953 bar examination, 72 per cent; for 1954 bar examination, 73 per cent; and for 1955 bar examination, 74 per cent. Thus in 1956 the passing mark will be restored with the condition that the candidate shall not obtain in any subject a grade of below 50 per cent. The reason for relaxing the standard 75 per cent passing grade, is the tremendous handicap which students during the years immediately after the Japanese occupation has to overcome such as the insufficiency of reading materials and the inadequacy of the preparation of students who took up law soon after the liberation. It is believed that by 1956 the preparation of our students as well as the available reading materials will be under normal conditions, if not improved from those years preceding the last world war.

In this bill we have eliminated altogether the idea of having our Supreme Court assume the supervision as well as the administration of the study of law which was objected to by the President in the Bar Bill of 1951.

"The President in vetoing the Bar Bill last year stated among his objections that the bill would admit to the practice of law 'a special class who failed in the bar examination'. He considered the bill a class legislation. This contention, however, is not, in good conscience, correct because Congress is merely supplementing what the Supreme Court have already established as precedent by making as low as 69 per cent the passing mark of those who took the Bar examination in 1947. These bar candidates for whom this will should be enacted, considered themselves as having passed the bar examination on the strength of the established precedent of our Supreme Court and were fully aware of the insurmountable difficulties and handicaps which they were unavoidably placed. We believe that such precedent cannot or could not have been altered, constitutionally, by the Supreme Court, without giving due consideration to the rights already

accrued or vested in the bar candidates who took the examination when the precedent wsa not yet altered, or in effect, was still enforced and without being inconsistent with the principles of their previous resolutions.

"If this bill would be enacted, it shall be considered as a simple curative act or corrective statute which Congress has the power to enact. The requirement of a 'valid classification' as against class legislation, is very well expreased in the following American Jurisprudence:

" 'A valid classification must include all who naturally belong to the lass, all who possess a common disability, attribute, or classification, and there must be a "natural" and substantial differentiation between those included in the class and those it leaves untouched. When a class is accepted by the Court as "natural" it cannot be again split and then have the disevered factions of the original unit designated with different rules established for each.'" (Fountain Park Co. *vs.* Rensler, 199 Ind. 95, N. E. 465 (1926).

"Another case penned by Justice Cardozo: 'Time with its tides brings new conditions which must be cared for by new laws. Sometimes the new conditions affect the members of a class. If so, the correcting statute must apply to all alike. Sometimes the condition affect only a few. If so, the correcting statute may be as narrow as the mischief. The constitution does not prohibit special laws inflexibly and always. It permits them when there are special evils with which the general laws are incompetent to cope. The special public purpose will sustain the special form. * * * The problem in the last analysis is one of legislative policy, with a wide margin of discretion conceded to the lawmakers. Only in the case of plain abuse will there be revision by the court. (In Williams *vs.* Mayor and City Council of Baltimore, 286 U. S. 36, 77 L. Ed. 1015, 53 Sup. Ct. 431). (1932)

"This bill has all the earmarks of a corrective statute which always retroacts to the extent of the cure or correction only as in this case from 1946 when the Supreme Court first deviated from the rule of 75 per cent in the Rules of Court.

"For the foregoing purposes the approval of this bill is earnestly recommended.

(Sgd.) "PABLO ANGELES DAVID
"Senator"

Without much debate, the revised bill was passed by Congress as above transcribed. The President again asked the comments of this Court, which endorsed the following:

Respectfully returned to the Honorable, the Acting Executive Secretary, Manila, with the information that, with respect to Senate Bill No. 371, the members of the Court are taking the same views they expressed on Senate Bill No. 12 passed by Congress in May, 1951, contained in the first indorsement of the undersigned dated June 5, 1951, to the Assistant Executive Secretary.

(Sgd.) RICARDO PARÁS

The President allowed the period within which the bill should be signed to pass without vetoing it, by virtue of which it became a law on June 21, 1953 (Sec. 20, Art. VI, Constitution) numbered 972 (many times erroneously cited as No. 974).

It may be mentioned in passing that 1953 was an election year, and that both the President and the author of the Bill were candidates for reselection, together, however, they lost in the polls.

LABRADOR, *J.*, concurring and dissenting:

The right to admit members to the Bar is, and has always been, the exclusive privilege of this Court, because lawyers are members of the Court and only this Court should be allowed to determine admission thereto in the interest of the principle of the separation of powers. The power to admit is judicial in the sense that discretion is used in its exercise. This power should be distinguished from the power to promulgate rules which regulate admission. It is only this power (to promulgate amendments to the rules) that is given in the Constitution to the Congress, not the exercise of the discretion to admit or not to admit. Thus the rules on the holding of examination, the qualifications of applicants, the passing grades, etc. are within the scope of the legislative power. But the power to determine when a candidate has made or has not made the required grade is judicial, and lies completely with this Court.

I hold that the act under consideration is an exercise of the judicial function, and lies beyond the scope of the congressional prerogative of amending the rules. To say that candidates who obtain a general average of 72 per cent in 1953, 73 per cent in 1954, and 74 per cent in 1955 should be considered as having passed the examination, is to mean exercise of the privilege and discretion judged in this Court. It is a mandate to the tribunal to pass candidates for different years with grades lower than the passing mark. No reasoning is necessary to show that it is an arrogation of the Court's judicial authority and discretion. It is furthermore objectionable as discriminatory. Why should those taking the examinations in 1953, 1954 and 1955 be allowed to have the privilege of a lower passing grade, while those taking earlier or later are not?

I vote that the act *in toto* be declared unconstitutional, because it is not embraced within the rule-making power of Congress, because it is an undue interference with the power of this Court to admit members thereof, and because it is discriminatory.

PARÁS, *C. J.*, dissenting:

Under section 14 of Rule of Court No. 127, in order that a bar candidate "may be deemed to have passed his examinations successfully, he must have obtained a general average of 75 per cent in all subjects, without falling below 50 per cent in any subject." This passing mark

has always been adhered to, with certain exception presently to be specified.

With reference to the bar examinations given in August, 1946, the original list of successful candidates included only those who obtained a general average of 75 per cent on more. Upon motion for reconsideration, however, 12 candidates with general averages ranging from 72 to 73 per cent were raised to 75 per cent by resolution of December 18, 1946. In the examinations of November, 1946 the list first released containing the names of successful candidates covered only those who obtained a general average of 75 per cent or more; but, upon motion for reconsideration, 19 candidates with a general average of 72 per cent were raised to 75 per cent by resolution of March 31, 1947. This would indicate that in the original list of successful candidates those having a general average of 73 per cent or more but below 75 per cent were included. After the original list of 1947 successful bar candidates had been released, and on motion for reconsideration, all candidates with a general average of 69 per cent were allowed to pass by resolution of July 15, 1948. With respect to the bar examinations held in August, 1948, in addition to the original list of successful bar candidates, all those who obtained a general average of 70 per cent or more, irrespective of the grades in any one subject and irrespective of whether they filed petitions for reconsideration, were allowed to pass by resolution of April 28, 1949. Thus, for the year 1947 the Court in effect made 69 per cent as the passing average, and for the year 1948 70 per cent; and this amounted, without being noticed perhaps, to an amendment of section 14 of Rule 127.

Numerous flunkers in the bar examinations held subsequent to 1948, whose general averages mostly ranged from 69 to 73 per cent, filed motions for reconsideration. invoking the precedents set by this Court in 1947 and 1948, but said motions were uniformly denied.

In the year 1951, the Congress, after public hearings were law deans and professors, practising attorneys, presidents of bar associations, and law graduates appeared and argued lengthily *pro* or *con*, approved a bill providing, among others, for the reduction of the passing general average from 75 per cent to 70 per cent, retroactive to any bar examination held after July 4, 1946. This bill was vetoed by the President mainly in view of an unfavorable comment of Justices Padilla, Tuason, Montemayor, Reyes, Bautista and Jugo. In 1953, the Congress passed another bill similar to the previous bill vetoed by the President, with the important difference that in the later bill the provisions in the first bill regarding (1) the supervision and regulation by the Supreme Court of the

study of law, (2) the inclusion of Social Legislation and Taxation as new bar subjects, (3) the publication of names of the bar examiners before the holding of the examinations, and (4) the equal division among the examiners of all the admission fees paid by bar applicants, were eliminated. This second bill was allowed to become a law, Republic Act No. 972, by the President by merely not signing it within the required period; and in doing so the President gave due respect to the will of the Congress which, speaking for the people, chose to repass the bill first vetoed by him.

Under Republic Act No. 972, any bar candidates who obtained a general average of 70 per cent in any examinations after July 4, 1946 up to August 1951; 71 per cent in the 1952 bar examinations; 72 per cent in 1953 bar examinations; 73 per cent in the 1954 bar examinations; and 74 per cent in the 1955 bar examinations, without obtaining a grade below 50 per cent in any subject, shall be allowed to pass. Said Act also provides that any bar candidate who obtained a grade of 75 per cent in any subject in any examination after July 4, 1946, shall be deemed to have passed in such subject or subjects and such grade or grades shall be included in computing the passing in any subsequent examinations.

Numerous candidates who had taken the bar examinations previous to the approval of Republic Act No. 972 and failed to obtain the necessary passing average, filed with this Court mass or separate petitions, praying that they be admitted to the practice of law under and by virtue of said Act, upon the allegation that they have obtained the general averages prescribed therein. In virtue of the resolution of July 6, 1953, this Court held on July 11, 1953 a hearing on said petitions, and members of the bar, especially authorized representatives of bar associations, were invited to argue or submit memoranda as *amici curiæ*, the reason alleged for said hearing being that some doubt had "been expressed on the constitutionality of Republic Act No. 972 in so far as it affects past bar examinations and the matter" involved "a new question of public interest."

All discussions in support of the proposition that the power to regulate the admission to the practice of law is inherently judicial, are immaterial, because the subject is now governed by the Constitution which in Article VIII, section 13, provides as follows:

"The Supreme Court shall have the power to promulgate rules concerning pleading, practice, and procedure in all courts, and the admission to the practice of law. Said rules shall be uniform for all courts of the same grade and shall not diminish, increase, or modify substantive rights. The existing laws on pleading, practice, and procedure are hereby repealed as statutes and are

declared Rules of Court, subject to the power of the Supreme Court to alter and modify the same. The Congress shall have the power to repeal, alter, or supplement the rules concerning pleading, practice, and procedure, and the admission to the practice of law in the Philippines."

Under this constitutional provision, while the Supreme Court has the power to promulgate rules concerning the admission to the practice of law, the Congress has the power to repeal, alter or supplement said rules. Little intelligence is necessary to see that the power of the Supreme Court and the Congress to regulate the admission to the practice of law is concurrent.

The opponents of Republic Act No. 972 argue that this Act, in so far as it covers bar examinations held prior to its approval, is unconstitutional, because it sets aside the final resolutions of the Supreme Court refusing to admit to the practice of law the various petitioners, thereby resulting in a legislative encroachment upon the judicial power. In my opinion this view is erroneous. In the first place, resolutions on the rejection of bar candidates do not have the finality of decisions in justiciable cases where the Rules of Court expressly fix certain periods after which they become executory and unalterable. Resolutions on bar matters, specially on motions for reconsiderations filed by flunkers in any given year, are subject to revision by this Court at any time, regardless of the period within which the motions were filed, and this has been the practice heretofore. The obvious reason is that bar examinations and admission to the practice of law may be deemed as a judicial function only because said matters happen to be entrusted, under the Constitution and our Rules of Court, to the Supreme Court. There is no judicial function involved, in the strict and constitutional sense of the word, because bar examinations and the admission to the practice of law, unlike justiciable cases, do not affect opposing litigants. It is no more than the function of other examining boards. In the second place, retroactive laws are not prohibited by the Constitution, except only when they would be *ex post facto*, would impair obligations and contracts or vested rights, or would deny due process and equal protection of the law. Republic Act No. 972 certainly is not an *ex post facto* enactment, does not impair any obligation and contract or vested right, and denies to no one the right to due process and equal protection of the law. On the other hand, it is a mere curative statute intended to correct certain obvious inequalities arising from the adoption by this Court of different passing general averages in certain years.

Neither can it be said that bar candidates prior to July 4, 1946, are being discriminated against, because we no

longer have any record of those who might have failed before the war, apart from the circumstance that 75 per cent had always been the passing mark during said period. It may also be that there are no pre-war bar candidates similarly situated as those benefited by Republic Act No. 972. At any rate, in the matter of classification, the reasonableness must be determined by the legislative body. It is proper to recall that the Congress held public hearings, and we can fairly suppose that the classification adopted in the Act reflects good legislative judgment derived from the facts and circumstances then brought out.

As regards the alleged interference in or encroachment upon the judgment of this Court by the Legislative Department, it is sufficient to state that, if there is any interference at all, it is one expressly sanctioned by the Constitution. Besides, interference in judicial adjudication prohibited by the Constitution is essentially aimed at protecting rights of litigants that have already been vested or acquired in virtue of decisions of courts, not merely for the empty purpose of creating appearances of separation and equality among the three branches of the Government. Republic Act No. 972 has not produced a case involving two parties and decided by the Court in favor of one and against the other. Needless to say, the statute will not affect the previous resolutions passing bar candidates who had obtained the general average prescribed by section 14 of Rule 127. A law would be objectionable and unconstitutional if, for instance, it would provide that those who have been admitted to the bar after July 4, 1946, whose general average is below 80 per cent, will not be allowed to practice law, because said statute would then destroy a right already acquired under previous resolutions of this Court, namely, the bar admission of those whose general averages were from 75 to 79 per cent.

Without fear of contradiction, I think the Supreme Court, in the exercise of its rule-making power conferred by the Constitution, may pass a resolution amending section 14 of Rule 127 by reducing the passing average to 70 per cent, effective several years before the date of the resolution. Indeed, when this Court on July 15, 1948 allowed to pass all candidates who obtained a general average of 69 per cent or more and on April 28, 1949 those who obtained a general average of 70 per cent or more, irrespective of whether they filed petitions for reconsideration, it in effect amended section 14 of Rule 127 retroactively, because during the examinations held in August 1947 and August 1948, said section (fixing the general average at 75 per cent) was supposed to be in force. It stands to reason, if we are to admit that the Supreme Court and the Congress have concurrent power to regulate the admission to the practice of law, that the

latter may validly pass a retroactive rule fixing the passing general average.

Republic Act No. 972 cannot be assailed on the ground that it is unreasonable, arbitrary or capricious, since this Court had already adopted as passing averages 69 per cent for the 1947 bar examinations and 70 per cent for the 1948 examinations. Anyway, we should not inquire into the wisdom of the law, since this is a matter that is addressed to the judgment of the legislators. This Court in many instances had doubted the propriety of legislative enactments, and yet it has consistently refrained from nullifying them solely on that ground,

To say that the admission of the bar candidates benefited under Republic Act No. 972 is against public interest, is to assume that the matter of whether said Act is beneficial or harmful to the general public was not considered by the Congress. As already stated, the Congress held public hearings, and we are bound to assume that the legislators, loyal, as do the members of this Court, to their oath of office, had taken all the circumstances into account before passing the Act. On the question of public interest I may observe that the Congress, representing the people who elected them, should be more qualified to make an appraisal. I am inclined to accept Republic Act No. 972 as an expression of the will of the people through their duly elected representatives.

I would, however, not go to the extent of admitting that the Congress, in the exercise of its concurrent power to repeal alter or supplement the Rules of Court regarding the admission to the practice of law, may act in an arbitrary or capricious manner, in the same way that this Court may not do so. We are thus left in the situation, incidental to a democracy, where we can and should only hope that the right men are put in the right places in our Government.

Wherefore, I hold that Republic Act No. 972 is constitutional and should therefore be given effect in its entirety.

Candidates who in 1953 obtained 71.5 per cent, without falling below 50 per cent on any subject, are considered passed.

DECISIONS OF THE COURT OF APPEALS

[No. 11444-R. November 28, 1953]

MANUEL S. ARANETA and JOSE L. UY, petitioners, *vs.* The Hon. JUDGES BIENVENIDO A. TAN and CONRADO V. SANCHEZ, COMMONWEALTH INSURANCE CO., THE CATHAY COMPANY, DAVID GAN and ANG LAM & SONS CO., respondents.

1. PLEADING AND PRACTICE; TRIAL; POSTPONEMENT; COURT'S DISCRETION.—It is a well established rule in this jurisdiction that petitions for postponement are addressed to the sound discretion of the court and that the parties to an action have no right to assume that such petitions would be granted (Lichauco *vs.* Lim, 6 Phil., 271; Camacho *vs.* Liquete, 6 Phil., 50; U. S. *vs.* Ramirez, 39 Phil., 738).

2. CERTIORARI, NOT THE PROPER REMEDY AGAINST AN ORDER DENYING MOTION FOR RELIEF BASED ON THE GROUND OF EXCUSABLE NEGLIGENCE UNDER RULE 38.—Certiorari does not lie against an order denying a motion for relief based on the ground of excusable neglect under Rule 38, Rules of Court, because said order is final in character in that *it would put an end to the ordinary proceeding of a case in court*, and, therefore, appealable (Sec. 2, Rule 41; Monteverde *vs.* Jaranilla, 60 Phil., 297).

ORIGINAL ACTION in the Court of Appeals. Petition for certiorari.

The facts are stated in the opinion of the court.

S. Emiliano Calma for petitioner.

Uy & Yuzon for respondents Ang Lam & Sons Company and David Gan.

Ozaeta, Roxas, Lichouco & Picazo for respondents Commonwealth Insurance Co., and B. A. Tan and C. V. Sanchez.

FELIX, *J.:*

On April 2, 1949, upon application of Manuel S. Araneta and José L. Uy, the Commonwealth Insurance Company put up a surety bond in the amount of ₱20,000 in favor of De la Rama Steamship Co., Inc., in which the former signed as principals and the insurance company as surety. This bond was furnished in favor of the steamship company to guarantee payment within 20 days from the date of departure of its vessel Doña Aurora, of the balance of freight not exceeding ₱20,000 of certain cargoes loaded on the vessel from Manila to Formosa. Manuel Araneta and José Uy failed to pay the balance of the freight due and the Commonwealth Insurance Co. had to pay and did pay to De la Rama Steamship Co., Inc., as per the terms of the bond, the amount of ₱15,000. After

this account was settled the two guarantors, to wit: the Cathay Company, represented then by Yao Shiong Shia, and Ang Lam & Sons Co., paid the insurance company the amounts of ₱7,500 and ₱4,500 respectively, or a total of ₱12,000, on condition that both guarantors would no longer be liable for the payment of the uncollected balance of ₱3,000 that the Commonwealth Surety Company paid to De la Rama, and as Manuel Araneta and José L. Uy failed to pay this balance despite repeated demands of their surety, on October 4, 1950, the latter filed in the Court of First Instance of Manila—docketed as Civil Case No. 12276 of said court—a complaint entitled "Commonwealth Insurance Co., plaintiff *vs.* Manuel Araneta and José L. Uy, defendants." (Annex A.)

On October 28, 1950, these defendants filed their answer (Annex B), and the court, by order of July 17, 1951 (Annex C), authorized defendant Manuel Araneta to file a third party complaint against his consigners José L. Uy, Cathay Co. and Ang Lam & Sons Co., although the third party complaint which was amended on October 5, 1951 (Annex D), excluded José L. Uy and included David Gan as third party defendants.

The issues in the case having been joined, the court set the hearing of said Civil Case No. 12276 for May 5, 1953, at 1:00 p.m. Attorney José *A.* Uy for the third party defendants Ang Lam & Sons Co. and David Gan filed on April 29, 1953, a petition for postponement of the hearing (Annex E) on the ground that his services had been previously engaged in the province of Marinduque for that day, May 5, 1953, and on May 2, 1953, Attorney S. Emiliano Calma for the defendants and third party plaintiffs, who received the notice for hearing on April 28, 1953, filed an ex-parte (Annex F) praying also for the postponement of the hearing on the ground that he had to be in Malolos, Bulacan, in connection with the investigation to be held in the office of the Provincial Fiscal of a complaint for serious physical injuries scheduled for May 5, 1953, and alleging that said investigation had been set for hearing since April 28, 1953, and had no time to secure postponement thereof.

On the day of the hearing—May 5, 1953—neither the defendants and third party plaintiffs nor any of their lawyers appeared, and the third party defendants, respondents Cathay Company and Ang Lam & Sons Co. moved for the dismissal of the third party complaint which the court, acting through respondent Judge Bienvenido A. Tan, granted dismissing the third party complaint (Annex G). The court then proceeded to hear the case with regard to the complaint of the Commonwealth Insurance Co. and the counterclaim of third party defendants Cathay Com-

pany and Ang Lam & Sons Co., who claimed reimbursement of the amount of ₱7,500 and ₱4,500 respectively paid by them to the plaintiff in lieu of the defendants and third party plaintiffs. After hearing the Court, through respondent Judge Bienvenido A. Tan, disposed of the case on that very day, May 5, 1953, as follows:

"In view of the foregoing, the Court hereby renders judgment in favor of plaintiff Commonwealth Insurance Co. and against defendants Manuel Araneta and José Uy, ordering said defendants to pay jointly and severally to plaintiff the sum of ₱3,000 plus ₱600 as attorney's fees and the costs of this action.

Defendants Manuel Araneta and José Uy are also ordered to pay jointly and severally to Cathay Co. the amount of ₱7,500 plus ₱500 as attorney's fees, and to Ang Lam & Sons Co. the amount of ₱4,500 plus ₱500 as attorney's fees." (Annex H).

The defendants and third party plaintiffs did not seek the lifting of the order of the trial court dismissing the third party complaint. They instead filed on May 19, 1953, a petition for relief from judgment (Annex I), which respondent Judge Bienvenido A. Tan denied on May 23, 1953 (Annex J), after which the defendants and third party plaintiffs came back on June 3, 1953 with a motion for reconsideration of said order of May 23, 1953 (Annex K), which the court, through Judge Conrado V. Sanchez, denied on June 8, 1953 (Annex L).

The defendants and third party plaintiffs instead of taking the case on appeal to this Court of Appeals, preferred to come to us for a writ of certiorari, and to this end they filed on July 2, 1953, the corresponding petition that gave rise to these proceedings, claiming that in said Civil Case No. 12276 of the Court of First Instance of Manila the Hon. Judge Bienvenido A. Tan acted with grave abuse of discretion:

(*a*) In denying the petition for postponement filed by Attorney José *A*. Uy for the third party defendants in Civil Case No. 12276 (Annex E);

(b) In denying the motion ex-parte for postponement filed by Attorney S. Emiliano Calma for the defendants and third party plaintiffs (Annex F);

(*c*) In issuing his order of May 5, 1953, dismissing the third party complaint without any motion to that effect and despite the absence of third party defendants (Annex G);

(*d*) In denying the petition for relief from judgment (Annex I) dated May 14, 1953, of the defendants and third party plaintiffs in said case (Annex J), when he should have granted the petition for postponement and motion ex-parte in view of the fact that Attorney José *A*. Uy's services had been by prior arrangement engaged in the province of Marinduque and that on April 6, 1953, by agreement of all parties in said investigation, Attorney S. Emiliano Calma, who had to represent the complainant in a criminal investigation for robbery with serious physical injuries at Malolos, Bulacan, set for May 5, 1953, had no alternative other than to ask for the postponement of the hearing of Civil Case No. 12276 set for that same day, May 5, 1953;

(e) That the respondent Judge Conrado V. Sánchez also acted in abuse of his discretion in denying the motion for reconsideration dated June 1, 1953 of the defendants and third party plaintiffs, issuing his order of June 8, 1953 (Annex L).

Based on these averments, petitioners Manuel S. Araneta and José *L.* Uy, through counsel prayed this court:

"To require the clerk of the Court of First Instance of Manila to certify the whole record of Civil Case No. 12276 entitled "Commonwealth Insurance Co., plaintiff *vs.* Manuel S. Araneta and Jose *L.* Uy, defendants, and third party plaintiffs *vs.* The Cathay Co., David Gan and Ang Lam & Sons Co., third party defendants", and that after review of the said case, to annul and set aside the decision and orders of the respondent judges which are specified herein, and to order that a trial on the merits of Civil Case No. 12276 be celebrated."

Upon going over the pleadings we find that the bone of contention herein is whether or not the respondent judges acted with grave abuse of their discretion in denying the motions for postponement of the hearing of *some* of the third party defendants and of the defendants and third party plaintiffs, and in denying the relief from judgment asked for by the latter.

It is a well established rule in this jurisdiction that petitions for postponement are addressed to the sound discretion of the court and that the parties to an action have no right to assume that such petitions would be granted (Lichauco *vs.* Lim, 6 Phil., 271; Camacho *vs.* Liquete, 6 Phil., 50; U. S. *vs.* Ramirez, 39 Phil., 738.) In connection with the motion for postponement (Annex F) We notice that the petitioners herein adduce as a reason in their favor the motion (Annex E) filed by *some* of the third party defendants and now respondents herein who did not protest against the order denying the alleged motion for postponement. It is further to be noted, as counsel for respondent Cathay Company adverts, that Attorney S. Emiliano Calma, who signed the ex-parte motion for postponement (Annex F) was only one of several attorneys signing the pleadings for the defendants and third party plaintiffs in said case No. 12276 of the lower court and that as a matter of fact, said ex-parte motion for postponement was the *first* pleading he filed in said case, for the answer (Annex B) was signed by defendant José *L.* Uy, who is also a practising attorney who appeared as counsel for himself and for his co-defendant Manuel Araneta (the petitioners in this case). Defendant Attorney José L. Uy also signed the amended third party complaint (Annex D) for "Uy & Yuzon", attorneys for the defendants and third party plaintiffs, and it was *only* in the motion for postponement (Annex F) that Attorney S. Emiliano Calma for the *first* time signed for the attorneys of record of the petitioners, namely, Attorneys Uy

and Calma. So that even assuming that the attendance of Attorney Calma at the investigation in Malolos had been unavoidable, there was no reason why the defendants and third party plaintiffs would not have been present at the hearing of the case which was pending since October 14, 1950, specially when one of the defendants was a practising attorney and had been signing all the pleadings from the answer up to the time when his partner, Attorney Calma, filed the ex-parte motion for postponement (Annex F). Anyway, Attorney Calma was notified on *April 28, 1953*, of both the hearing in said Civil Case No. 12276 and the investigation of the criminal case in Malolos, and he preferred to attend a mere investigation before the Fiscal rather than the hearing of said civil case.

In Miranda *vs.* Municipality of Navotas, 2 Phil., 667; it was held that:

"Where it appears that a civil case was set for trial on November 25 of which assignment the defendant's attorney was notified on November 11, the court is justified in denying a motion for a continuance presented on November 24 on the ground that said attorney would be engaged in a criminal case in another court on the day set for the trial",

and that was a hearing of a criminal case and not a mere investigation before the fiscal.

From the 1952 edition of Chief Justice Moran's Comments on the Rules of Court, Vol. II, p. 155, We copy the following:

"Grave abuse of discretion defined.—Certiorari likewise lies where a tribunal, board or officer acted with grave abuse of discretion. (Chua Ko et al. *vs.* Abeto, 63 Phil., 539). However, not every error in the proceeding or every erroneous conclusion of law or of fact, is an abuse of discretion. By 'grave abuse of discretion' is meant such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction (Abad Santos *vs.* Province of Tarlac, 67 Phil., 480; Tan *vs.* People, L-4269, April 27, 1951)"

It has also been held by this court that:

"It is a familiar doctrine in this jurisdiction that certiorari would issue only to correct errors of jurisdiction and that no error or mistake committed by a court will be corrected by certiorari unless said court had acted in the premises without jurisdiction or in excess thereof or with such grave abuse of discretion as would amount to lack of jurisdiction." (Villalon *vs.* Encarnacion et al., CA-G. R. No. 10394-R, Feb. 6, 1953).

In the case at bar there is no reason to declare that the respondent judges acted either without jurisdiction, or in excess thereof, or that they acted with such grave abuse of discretion as would amount to lack of jurisdiction.

We might not be in agreement with the part of the decision (Annex H) of the lower court sentencing defendants and third party plaintiffs therein, who are the herein pe-

titioners, to pay jointly and severally to plaintiff the sum of ₱3,000 plus ₱600 as attorney's fees, for it might be argued that the Commonwealth Insurance Co. had waived its right to collect that balance of ₱3,000 when it liberated the guarantors Tao Shiong Shio and Ang Lam & Sons Co. from the payment of such balance, but we are not supposed to correct or modify said decision in the present case. After the court denied their motion for relief from judgment the therein defendants and third party plaintiffs should have appealed from that decision (Annex H) and order (Annex J) instead of instituting the present action for a writ of certiorari. It may not be amise to state at this juncture that counsel for respondent Cathay Company raises the question of lack of jurisdiction of this court to take cognizance of the present case of certiorari. He says that under section 30 of Republic Act No. 296, as amended, this "Court of Appeals has *only original* jurisdiction to issue writ of mandamus, prohibition, injunction, certiorari, habeas corpus and all other auxiliary writs and processes *in aid of its appellate jurisdiction*", and since petitioners themselves states that the remedy of appeal is not available to them, which appears to be true because they allowed to lapse the period to appeal from the decision of the respondent judge dated May 5, 1953 (Annex H) and from the order of the lower court dismissing the third party complaint (Annex G) which are now final and executory, it follows that the Court of Appeals cannot entertain this case because the basis of the original jurisdiction of this court in these proceedings is the existence of petitioners' right of taking their case on appeal to us.

"A petition for certiorari, prohibition and mandamus arising from an action within the jurisdiction of and pending before a court of first instance, may be entertained by the Court of Appeals if it appears from the allegations in the plaintiff's petition, complaint or information that the parties have a right to appeal, according to law, from the final orders or decisions of the lower court to the Court of Appeals irrespective of whether an appeal had already been or will actually be taken or not." (Breslin et al., *vs.* Luzon Stevedoring Co. et al., 47 Off. Gaz., 1170)

* * * * * * *

"But if the Court of Appeals has no appellate jurisdiction it could not issue writs of mandamus, prohibition or ecrtiorari in aid of an appellate jurisdiction which it does not have. In other words, the supervisory power or jurisdiction of the Court of Appeals to issue mandamus, prohibition or certiorari in aid of its appellate jurisdiction *must co-exist with and be a complement to its appellate jurisdiction* to review, by appeal or writ of error, the final orders and decisions of the lower court in order to have a complete supervision over the acts of the latter."

The foregoing reasons of counsel for the respondent Cathay Company sound quite convincing, but he turned the question into a veritable legal puzzle, for according

to the Rules of Court (Sec. 1, Rule 67), certiorari *does not lie when there is appeal* or any other plain, speedy and adequate remedy in the ordinary cause of law, while under the Judiciary Act of 1948 "the Court of Appeals has *only original* jurisdiction to issue writs of mandamus, certiorari and all other auxiliary writs and processes *in aid of its appellate jurisdiction.* Fortunately, we need not solve the problem this time because the Supreme Court has held that ["certiorari does not lie against an order denying a motion for relief based on the ground of excusable neglect under Rule 38, because said order is final in character in that *it would put an end to the ordinary proceeding of a case in court, and, therefore, appealable* (Sec. 2, Rule 41; Monteverde *vs.* Jaranilla, 60 Phil., 297), and there is no showing that petitoiner's failure to avail himself of the remedy of appeal which he might have pursued was not due to his fault or negligence." (Rios *vs.* Ross, 45 Off. Gaz., 1265).

In view of the foregoing considerations, we find that the petitioners herein have not shown any right to the remedy they ask for in this case.

Wherefore, the petition is hereby dismissed, with costs against the petitioners.

It is so ordered.

Gutierrez David and Peña, JJ., concur.

Petition dismissed with cost.

[No. 12030–R. December 24, 1953]

CO TAO, petitioner, *vs.* Hon. RAMON SAN JOSE, METROPOLITAN INSURANCE CO., and THE SHERIFF OF MANILA, respondents.

CERTIORARI AND PROHIBITION; FAILURE TO EXHAUST ALL POSSIBLE REMEDIES IN LOWER COURT, AS GROUND FOR DISMISSAL.—A petition for certiorari and prohibition will be dismissed when the petitioner has not exhausted all possible remedies in the court below, such as the filing of a motion for reconsideration of the order directing the sheriff to execute judgment, with the prayer that, while such motion is pending resolution, the order of execution be suspended. In other words, the attention of the lower court must be first called upon to its supposed error and its correction asked for (Herrera *vs.* Barreto, 25 Phil., 245; Uy Chua *vs.* Imperial, 44 Phil., 27; Manila Post Publishing Co. *vs.* Sanchez, 46 Off. Gaz., Supp. No. 1, Jan. 1950, p. 412; and Alvarez *vs.* Ibañez, 46 Off. Gaz., Sept. 1950, p. 4233).

ORIGINAL ACTION in the Court of Appeals. Certiorari and prohibition.

The facts are stated in the opinion of the court.

Adriano M. Ignacio for petitioner.
Pacifico de Ocampo for respondents.

DE LEON, *J.:*

Co Tao, petitioner herein, is the defendant in a forcible entry case (Civil Case No. 20503, of the Municipal Court of Manila, and No. 18095, of the Court of First Instance of Manila), filed against him by respondent Metropolitan Insurance Co. Judgment was rendered against Co Tao in the court of origin on October 19, 1952, ordering him "to vacate the premises described in the complaint and to pay the amount of ₱400 from March, 1952, plus ₱100 as attorney's fees, and costs." It would appear that, pending trial on appeal in the Court of First Instance, petitioner Co Tao failed to deposit the rental on the premises in question for September, 1953, so that on motion of respondent Metropolitan Insurance Co., an order was issued by the respondent judge on November 11, 1953, directing the respondent sheriff to issue a writ of execution "to enforce the judgment rendered by the Municipal Court of Manila on October 18, 1952, in the case appealed from, without prejudice of the appeal taking course until final disposition thereby on its merits."

Co Tao alleges, in his amended petition for certiorari and prohibition filed with this court, that neither the Municipal Court nor the Court of First Instance of Manila has jurisdiction to take cognizance of the ejectment case, on the ground that the complaint therein contains no allegation that the plaintiff has been deprived of his possession of the building in question by force, intimidation, threat, strategy or stealth (Section 1, Rule 72, of the Rules of Court); and, that, therefore, the order issued by the trial court on November 11, 1953, ordering execution of the judgment of the court of origin, was null and void for lack of jurisdiction. In an endeavor to explain his failure to deposit on time the rental for the premises in question for September, 1953, Co Tao avers that he did not deposit said rental due to the suggestion of Mr. Jose A. del Prado, of the respondent corporation, to Mr. G. K. Co Bun Kim, former owner of the property in question, that there would be no necessity of depositing the rental due the respondent corporation as the property would be repurchased by said G. K. Co Bun Kim, alleged employer of the petitioner. In his prayer, the petitioner, among others, has asked this court:

"1. Ordenando a los recurridos a abstenerse de ejecutar la orden de lanzamiento, acotada en el parrafo VIII de esta solicitud, interin la Causa Civil No. 18095 del Juzgado de Primera Instancia de Manila, no se resuelve en difinitivo."

We are constrained to dismiss this petition for certiorari and prohibition. The petitioner has not exhausted all possible remedies in the court below. He did not file, through counsel, a motion for reconsideration of the order

of November 11, 1953, with the prayer that, while such motion is pending resolution, the order of execution be suspended. The petitioner raised the question of jurisdiction in his answer in the ejectment case. The court below has not squarely met and decided such question as it would appear that the ejectment case has not yet been tried. When the order complained of was issued, the petitioner could have afforded the court below the opportunity to properly meet the question of jurisdiction and, at the same time, resolve the matter with respect to the cause of non-payment on time of the rental for September, 1953, which is a question of fact. In other words, the attention of the lower court was not first called upon to its supposed error and its correction asked for (Herrera *vs.* Barretto, 25 Phil., 245; Uy Chua *vs* Imperial, 44 Phil., 27; Manila Post Publishing Co. *vs.* Sanchez, 46 Off. Gaz., Supp. No. 1, January, 1950, p. 412; and Alvarez *vs.* Ibañez, 46 Off. Gaz., September, 1950, p. 4233). Furthermore, we find no special circumstances requiring immediate and more direct action. The ejectment case is still pending trial in the lower court. The petitioner can raise the question of jurisdiction, on alleged insufficiency of the complaint, in the said court below and, if he loses therein, assign the same as an error on appeal. In Alvarez *vs.* Ibañez, *supra,* the petitioners therein "prayed that the Court of First Instance of Laguna be declared without jurisdiction to take cognisance of civil case No. 9039, entitled 'Colegio de San Jose *versus* Jose H. Guevara et al.,' and that the orders issued in said case on December 10, 1947, January 22, 1948 and February 13, 1948, be set aside." In denying the petition for certiorari, our Supreme Court said:

"The issues in the present case are substantially the same as those in the case of Ramirez *vs.* Ibañez, L–1878, wherein it was decided by majority decision to dismiss the case on the ground that the lower court should first be given the chance of deciding the issues pending therein, before petitioners could be allowed to seek remedy from the Supreme Court.

"In the present case, thel ower court did not act upon petitioners' motion for reconsideration of the order appointing Segundo C. Mastrili as receiver because of the filing of the petition for prohibition in said L–1878. The lower court should be given the chance of deciding said question before petitioners can appear before us to raise the same question.

"As regards the orders of thel ower court of January 22 and February 13, 1948, because of which petitioners failed to secure the dismissal of the complaint in civil Case No. 9039, the proper remedy for petitioners is by ordinary appeal in due time.

"Petition dismissed. With the dismissal of the petition, it is not necessary to make any pronouncement on the incidental matters raised by petitioners." (p. 4235).

Conformably with the above-cited case of Alvarez *vs.* Ibañez, *supra,* we shall not discuss the question of jurisdiction or the merit of the claim of the petitioner with

respect to his failure to pay the rental on the premises in question on time. The petition is, therefore, hereby dismissed, and the writ of preliminary injunction issued by this court on December 4, 1953, dissolved. No special pronouncement as to costs. So ordered.

Concepcion and *Dizon, JJ.*, concur.

Petition dismissed; writ of preliminary injunction dissolved.

[No. 10365-R. January 21, 1954]

JUVENAL DE LA CRUZ, plaintiff and appellee, *vs.* ROSARIO UDARBE YULO, defendant and appellant

1. UNLAWFUL DETAINER; ACTION; RESCISSION OF LEASE, NOT A CONDITION PRECEDENT TO COMMENCEMENT OF ACTION.—In cases of unlawful detainer, with the owner suing for the ejectment of the tenant, by reason of the termination of the latter's right to continue occupying the premises for failure to pay the rents, the Rules do not impose as a condition precedent, the rescission of the lease contract before action could be commenced. Where, as in the instant case, the contract involved is oral, and payment of rentals being monthly, the lease is terminated at the end of the month, unless renewed or extended, tacitly or expressly. The failure to pay the monthly rentals concludes the lease, and a lawyer's letter of demand to vacate and pay rentals, serves as a notice of the termination of such lease, which amounts to rescission.
2. ID.; ID.; JURISDICTION OF INFERIOR COURTS; AMOUNT OF RENTS OR DAMAGES NOT DETERMINING FACTOR.—If rents or damages are claimed in the action of forcible entry or illegal detainer, the inferior court has jurisdiction irrespective of the amount of rents or damages claimed. But if only rents or damages are claimed in an ordinary action, the action is personal, and the amount claimed will determine whether it falls within the jurisdiction of the court of first instance or the inferior court. (Tuason *vs.* Sellner, 30 Phil., 543; Boga *vs.* Sajo, 11 Phil., 409; Feria's Civil Procedure, 1952 Ed., p. 101.)
3. APPEAL; COURT OF APPEALS; APPELLATE JURISDICTION.—In an appeal where the jurisdiction of an inferior court is correctly and properly in issue, and the determination of said jurisdiction depends upon facts yet to be ascertained and found from the evidence, it is the Court of Appeals and not the Supreme Court that shall assume appellate jurisdiction (Zapanta *vs.* Bartolome, 46 Off. Gaz., p. 5447.)

APPEAL from a judgment of the Court of First Instance of Manila. Panlilio, J.

The facts are stated in the opinion of the court.

Macapagal, Punsalan & Yabut for defendant-appellant.
Gilberto Neri for plaintiff-appellee.

PAREDES, *J.:*

This action was brought by plaintiff Juvenal de la Cruz in the Municipal Court of Manila, against Defendant Rosario Udarbe de Yulo, seeking the ejectment

of the latter from the premises located at No. 145 Isaac Peral Street, Manila, and the payment of rentals in the sum of ₱1,350. Defendant was condemned by the trial court to pay the plaintiff, rentals at the rate of ₱450 monthly from September, 1951, up to the time the possession of the premises is returned to the plaintiff, and to pay the costs. Defendant's counterclaim was dismissed for lack of proof. The defendant interposed the present appeal.

The proofs sufficiently established that defendant leased from plaintiff the apartment designated as Nos. 135–145 Isaac Peral Street, Ermita, Manila, at an agreed rental of ₱450 monthly, payable in advance. As the defendant failed to pay the rentals for the months of July, August, September and October, 1951, in the total sum of ₱1,800, his lawyer wrote a letter of demand by registered mail, to the defendant, requiring her to vacate the premises and to pay the rentals in arrears (Exhibit A). Notwithstanding the receipt of this letter (Exhibit B), the defendant made no payment and did not vacate the premises until the suit was presented in court. After the receipt of the summons in the municipal court by defendant, and on November 25, 1951, the latter asked plaintiff for more time to pay the back rentals. The plaintiff did not agree that the obligation be paid in the manner proposed by the defendant, that is, that defendant would pay the rentals corresponding to September to December, 1951, on or before December 31, 1951. On said date, however, the defendant issued a check postdated November 30, 1951, in payment of the rentals for August, 1951 (Exhibit 2). On November 27, 1951, the case was heard in the municipal court, on default, because the defendant neither appeared nor answered the complaint. Copy of the decision, ordering the defendant to vacate the premises and to pay the back-rentals and costs, was received by the said defendant on December 3, 1951. A motion for reconsideration and new trial was filed and subsequently denied by the municipal court. The case was brought on appeal to the Court of First Instance of Manila, which rendered the judgment heretofore stated.

The defendant alleges that in the year 1949, she leased from plaintiff one door for ₱100 a month and in the year 1950, the entire building, consisting of 4 doors, Nos. 135–145 Isaac Peral, for ₱450 a month, payable in advance; that she had been regular in the payment of her rents, until 1951, when she undertook a trip to Europe and during her absence, rents for the building were not paid; that upon her return, she told plaintiff to have some patience because she had no cash; that upon receipt of plaintiff's letter of demand (Exhibit A or 3), dated October 18, 1951, she, accompanied by her husband, went to the plaintiff and asked

her why was the said letter sent, to which plaintiff assured her that the same did not matter, because his lawyer was his patron; that on said occasion, she paid the plaintiff a check in the amount of ₱450 for the month of July, 1951 (Exhibits 1 and 1-A,; that much to her surprise, the plaintiff filed on November 7, 1951, a complaint in the Municipal Court of Manila; that after summons were served and on November 25, 1951 (2 days before the date set for the hearing), she and her husband, for the second time, went to plaintiff and asked him why the complaint was filed notwithstanding his previous assurances, to which he again allayed her fears, by telling her that there was nothing about the matter, and that she need not appear in court anymore, because he would ask his lawyer to have the dismissal of the complaint; that on this occasion also, the parties agreed that defendant issue a check (Exhibit 2), postdated November 30, 1951, for August, 1951 rentals, and she obligated herself to pay the rents for September to December, 1951, on or before December 25, 1951; that, believing in good faith on the effectiveness of this agreement, defendant did not appear anymore in court on November 27, 1951, date of the trial; on which she was declared in default.

It is alleged in the two assignments of error that the lower court erred (1) in not dismissing the complaint for lack of jurisdiction; and (2) in ordering the ejectment of the defendant from the premises. In connection with the first, the gist of appellant's argument seems to be this: "That there being no evidence of the termination or rescission of the contract of lease during the pendency of this case before the municipal court, this inferior court acted without jurisdiction; and, therefore, the lower court on appeal acquired nothing, except to dismiss the case (Rule 40, section 11, Rules of Court)." (Appellant's brief, p. 8.); that "plaintiff's action is one for rents in arrears in the amount of ₱1,350, damages (not reasonable compensation for the use and occupation of the premises) in the sum of ₱2,000 and attorney's fees in the sum of ₱200, making a total sum of ₱3,550 well over the jurisdictional amount (₱2,000) allowed inferior courts by Republic Act No. 296", and so, defendant maintains that "the municipal court having no jurisdiction over the amount of the demand, the lower court acquires nothing on appeal." (Appellant's brief, p. 9.) The appellant was the tenant of the appellee and the complaint seeks the ejectment of the former for her failure to make payments. It is a case of unlawful detainer, with the owner-appellee suing for the ejectment of the tenant-appellant, by reason of the termination of the latter's right to continue occupying the premises for failure to pay the rents, under the provisions of section 1, Rule

72, which provides that upon the expiration of the right to hold possession, action for ejectment lies. In cases of this nature, the Rules do not impose as a condition precedent, the rescission of the lease contract before action could be commenced. The contract involved herein is oral, and payment of rentals being monthly, it is terminated at the end of the month, unless renewed or extended, tacitly or expressly. The failure to pay the monthly rentals concludes the lease, and a note, such as the one given in this case, Exhibit A, serves as a notice of the termination of such lease, which amounts to the rescission, now being pressed upon by the appellant. With respect to the other point, the argument of appellant's counsel runs counter to the doctrine enunciated in the cases of Tuason *vs.* Sellner, 30 Phil., 543, and Bega *vs.* Sajo, 11 Phil., 409, wherein it was stated, defining the jurisdiction of the justice of the peace courts, "If rents or damages are claimed in the action of forcible entry or illegal detainer, the inferior court has jurisdiction irrespective of the amount of rents or damages claimed. But if only rents or damages are claimed in an ordinary action, the action is personal, and the amount claimed will determine whether it falls within the jurisdiction of the court of first instance or the inferior court." (Feria's Civil Procedure, 1952 Ed., p. 101.)

The second assignment of error presents a question of fact—credibility, and it refers to the supposed agreement of November 25, 1951, regarding the manner the rentals for August, September, October, November and December, 1951, would be paid. Appellant in her brief, p. 11, alleges: "Pursuant to the said agreement defendant-appellant paid the rentals for August, 1951 (Exhibit 2) and the plaintiff-appellee accepted the same. But in pursuance of a subsequent change of mind plaintiff-appellee did not bother to inform the municipal court on November 27, 1951, of defendant-appellant's payment of the August, 1951, rentals. It will be argued that the check was postdated. Nonetheless, it is a fact that plaintiff-appellee cashed the check on or before December 3, 1951, and had there been no bad faith on his part he could have asked the municipal court for the amendment of the judgment before he asked for the execution of the same after December 17, 1951." From which we may infer that appellant admitted she was really in arrears in the payment of rentals; her only gripe being the failure of appellee to abide with the supposed agreement and in having obtained an execution of the judgment thereof. She also claims that because of her payment of rentals for August, 1951, with a check postdated November 30, 1951, she should not have been ejected from the premises. The supposed agreement was emphatically denied by appellee. And if such agreement were executed, it was not

entered in good faith by appellant, for, notwithstanding the arrival of the supposed date, December 25, 1951, on which the whole back rentals would be paid, appellant had not made payments, except that one for the month of August, 1951. And we are of the opinion that the preponderance of evidence sustains the veracity and truthfulness of appellee's version of the case. In this connection, the learned trial judge said:

"As to the defendant's defense that the plaintiff told her not to mind to answer the complaint, the same appears to be untenable and unbelievable, taking into account the fact that as the defendant herself admitted, this is not the first time that as a business woman, she had a case in court and that it was incumbent upon her to file her answer to the complaint within the reglementary period. The least she could have done was to verify from the records if pursuant to the plaintiff's supposed assurance the complaint was dismissed. This she failed to do.

"The court likewise finds it unbelievable that the defendant did ever offer payment to the plaintiff for the rentals corresponding to the months of September, October, November and December, 1951, and that the plaintiff refused the same upon the suggestion of his lawyer. The court takes into account the fact that the reason for the plaintiff's seeking the ejectment of the defendant from the premises is the latter's failure to pay the rentals in arrears since August, 1951, and in the ordinary course of events, plaintiff would be acting to his own detriment if he did refuse payment."

We are aware of the fact that the first assignment of error raises the question of jurisdiction of an inferior court. However, we have decided to dispose of the case, in view of the ruling that in an appeal where the jurisdiction of an inferior court is correctly and properly in issue, and the determination of said jurisdiction depends upon facts yet to be ascertained and found from the evidence, it is the Court of Appeals and not the Supreme Court that shall assume appellate jurisdiction (Zapanta *vs.* Bartolome, 46 Off. Gaz., p. 5447.)

In view hereof, the judgment appealed from is hereby affirmed, with costs on the appellant. So ordered.

Diaz, Pres. J., and *Natividad, J.*, concur.

Judgment affirmed.

[No. 9543–R. January 22, 1954]

REPUBLIC OF THE PHILIPPINES, plaintiff and appellant, *vs.* MANUEL GOCO, defendant and appellee

1. CUSTOMS LAWS, VIOLATION OF; GOODS NOT DECLARED IN SHIPPING MANIFEST; LIABILITY TO FORFEITURE; SECTION 1363 (*g*), REVISED ADMINISTRATIVE CODE.—The transportation from one port of entry to another of goods not declared in the shipping manifest of the vessel, is in violation of sections 1211 and 1212 of the Revised Administrative Code. Such goods become liable to forfeiture in accordance with section 1363 (*g*) of

the same code. To condone the forfeiture as decided by the Collector of Customs and affirmed by the court *a quo* would be giving a chance to accessories after the fact of smugglers of foreign cigarettes to ply their trade with impunity and with the sanction of the courts. What the executive department could not then curb, the courts should not tolerate.

2. ID.; ID.; ID.; ID.; SUFFICIENCY OF EVIDENCE TO WARRANT FORFEITURE.—In the contemplation of the provisions of section 1363 (*g*) of the Revised Administrative Code, it is not necessary to prove by direct and positive evidence that the goods in question were smuggled into the Philippines in order that same can be forfeited; neither is it necessary to prove their illegal importation and loss of revenue thereof. It is a sufficient ground for forfeiture when the goods were not included in the ship's manifests in violation of the customs law aforequoted.

APPEAL from a judgment of the Court of First Instance of Manila. Macadaeg, J.

The facts are stated in the opinion of the court.

Assistant Solicitor General Guillermo E. Torres and *Solicitor Felicisimo R. Rosete* for plaintiff-appellant.

Dominador L. Reyes for defendant-appellee.

PECSON, *J.*

This is an appeal from a decision of the Court of First Instance of Manila affirming the decision of the Commissioner of Customs releasing 126 cartons of Chesterfield cigarettes to the defendant-appellee, Manuel Goco.

It appears that on March 8, 1951, Manuel Goco arrived in Manila from Jolo, Sulu, on the M/S "Turks Head" bringing with him two ice-cream carts. While the said ice-cream carts were being unloaded at the North Harbor, Manila, Pvt. Dominador Reyes of the Harbor Police became suspicious of their contents and he ordered them opened. He found that concealed therein were 126 cartons of Chesterfield cigarettes which were not declared in the cargo manifest of the vessel, while the two ice-cream carts were declared only at the port of Cebu, despite the fact that the said carts were loaded at the port of Jolo. According to the bill of lading prepared at Cebu on March 6, 1951, the shipper of the two ice-cream carts and consigned to the same person at Manila, was Gregorio Ignacio, instead of Manuel Goco, and the declared value of the said carts was ₱500 (p. 39, record). And when the ship arrived in Manila, another person, Juan Pilapil, signed as the consignee of the ice-cream carts (p. 6, appellant's brief).

After an inquiry, the Collector of Customs with the approval of the Commissioner of customs found the cigarettes as not having been manifested, but, nonetheless, ordered the said cigarettes to be turned over to defendant-appellee, Manuel Goco, on the grounds that: (1) there

were no proofs that the cigarettes were smuggled into the Philippines and, therefore, the government was not defrauded of any revenue, and (2) that this was the first offense committed by Manuel Goco.

In appealing from the said decision, the plaintiff-appellant cites the following assignment of errors:

I

The lower court erred in giving credence to the testimony of Manuel Goco that the 126 cartons of cigarettes will be given away as gifts to his relatives.

II

The lower court erred in not holding that the claimant has failed to prove his innocence by positive evidence tending to repeal the irregular circumstances of his possession of the cigarettes.

III

The lower court erred in holding that direct and positive evidence showing that the cigarettes in question were smuggled into the Philippines is necessary in order that said cigarettes be forfeited.

IV

The lower court erred in not holding that illegal importation and loss of revenue are not essential elements in a forfeiture proceeding for a violation of section 1363 (*g*) of the Revised Administrative Code.

V

The lower court erred in not holding that failure to include the cigarettes in question in the ship's manifest is enough reasonable ground for seizure and forfeiture.

The defendant-appellee did not file any brief.

With respect to the first assignment of error, Manuel Goco testified that twenty years ago, he left Malabon, Rizal and went to Jolo, Sulu, where he engaged in the business of making and selling ice-cream; that five months before the seizure of the cigarettes, he received a letter from his younger brother in Malabon inviting him to be present at the latter's wedding; that accordingly he thought it appropriate to give cigarettes as gifts to his brother and other relatives; that coincidentally there was an over abundance of American cigarettes in Jolo and the moros were willing to barter a carton of cigarette for one gallon of ice-cream which cost ₱4; that on boarding the M/S "Turks Head" he thought it safer to place the cigarettes inside the two ice-cream carts than in transporting them in their original cardboard cartons; that he did not manifest the ice-cream carts and the cigarettes as cargo on leaving the port of Jolo but when the ship reached Cebu, the ice-cream carts were discovered, and it was only then that the necessary bill of lading was made out for the two ice-cream carts but not for the cigarettes. Goco introduced three joint affidavits in order to corroborate

his claim that he bartered the cigarettes for ice-cream (pp. 29, 30 and 31, record). According to the joint affidavit of Insuan Tinguan and Felipe Sta. Cruz (p. 31, record,) they stated in part as follows:

"7. That according to Mr. and Mrs. Goco in our conversation in their house, which was in December, 1950, he (Mr. Goco) had already accumulated more than two cases of cigarettes for the exchange of his ice cream and that he desired to sell them so that he could get back his money and that the same would be used (*d*) by him in improving his business in ice cream."

This statement of Tinguan and Sta. Cruz, witnesses for Goco, contradicts the pretension of Goco that five months before his arrival in Manila he began accumulating the cigarettes for the purpose of giving them away as gifts to his brother and other relatives. The first assignment of error is, therefore, well taken, and the court *a quo* erred in giving credence to the testimony of Manuel Goco that the 126 cartons of cigarettes will be given away us gifts to his relatives.

With respect to the second assignment of error, we might say that the excuse given by Goco that he did not have the cigarettes manifested in order to prevent them from being stolen is flimsy because he could have been duly protected had he assured the proper bill of lading for his cargo and paid the corresponding fees therefor. He could have locked the cigarettes inside the ice-cream carts as he did; and besides, he accompanied the cargo himself and any pilferage would have been next to impossible. He claimed to have allegedly bartered the cigarettes with his ice-cream at the rate of one carton for a gallon which cost ₱4 only. A carton of Chesterfield cigarettes imported legally through the customs would cost not less than ₱6.50. The fact that the Moros disposed of a carton for only ₱4 is more than sufficient to have warned Goco that said cigarettes had entered the Philippines through illegal channels or without paying for the regular customs duties. It is a common knowledge that the island of Sulu is a fertile ground for smugglers of foreign goods from Borneo and Goco and his kind have been giving encouragement to such an illegal trade to the prejudice of the government in matters of collection of customs revenue. Any law-abiding citizen should cooperate with the government by refusing to buy goods under such suspicious circumstances in order to discourage smugglers of foreign goods from floating our customs law. Goco had a guilty conscience when he purposely did not secure a bill of lading for his cigarettes at Jolo and, also, when in the bill of lading which he assured at Cebu he declared two ice-cream carts only, valued at ₱500, without declaring the cigarettes contained therein which were more valuable

than the ice-cream carts. The concealment of the cargo which was a violation of the provisions of section 1363 (*g*) of the Revised Administrative Code was very patent. And besides, when he secured a bill of lading for the ice-cream carts in Cebu, although he was the owner, he caused it to appear that the shipper was Gregorio Ignacio and consigned to the same person at Manila—another indication of willful concealment. The second assignment of error is, therefore, well taken.

The third, fourth and fifth assignment of errors will be taken up jointly.

Section 1211 of the Revised Administrative Code provides that manifest shall be required for cargo and passengers transported from one place or port in the Philippines to another only when one or both of such places is a port of entry. And section 1212 of the same code requires that prior to departure from a port of entry, the master of the vessel operating in the coastwise trade shall make out and subscribe duplicate manifest of all cargo taken on board, specifying all the details thereof. The master is further required to deliver the cargo manifest to the collector or other customs officials duly authorized to swear before him that "the goods therein described, if foreign, were imported illegally and that the duties have been paid or secured * * *."

In this instant case before us, as the 126 cartons of Chesterfield cigarettes were not declared in the shipping manifest of the vessel, their transportation from Jolo to Manila, which are ports of entry, was in violation of sections 1211 and 1212 of the Revised Administrative Code. The cigarettes, therefore, have become liable to forfeiture in accordance with section 1363 (*g*) of the same code which provides:

"SEC. 1363. *Property subject to forfeiture under customs laws.*— Vessels, cargos, merchandise, and other objects and things shall under the conditions hereinbelow specified, be subject to forfeiture:

* * * * * * *

"(*g*) Unmanifested merchandise found on any vessel, a manifest therefor being required."

The law clearly provides that the cigarettes should have been manifested (sections 1211 and 1212, same code). And having been found unmanifested the said cigarettes are subject to forfeiture. There cannot be any other conclusion. To condone the forfeiture as decided by the Collector of Customs and affirmed by the court *a quo* would be giving a chance to accessories after the fact of smugglers of foreign cigarettes to ply their trade with impunity and with the sanction of the courts. What the executive department could not then curb, that is, rampant smuggling

of foreign cigarettes, the courts should not tolerate. The master of the vessel could not have sworn before the collector of customs officials duly authorized to receive his oath that the cigarettes *were imported legally and the duties have been paid* because Goco as the owner of said cigarettes did not declare them in the bill of lading. Had he declared them in the bill of lading the master of the vessel would have discovered that the cigarettes were imported and he would have required Goco to prove that the customs duties thereon have been paid before he could swear to the best of his knowledge and belief, in respect to the cargo manifest, that the goods therein described, which was foreign, were imported legally and that the duties thereon have been paid. (Section 1212, same code.)

In the contemplation of the provisions of section 1363 (*g*) of the Revised Administrative Code, it is not necessary to prove by direct and positive evidence that the cigarettes in question were smuggled into the Philippines in order that said cigarettes can be forfeited; neither is it necessary to prove the illegal importation of the cigarettes and loss of revenue thereof. It is a sufficient ground for forfeiture when the cigarettes were not included in the ship's manifests in violation of the customs law aforequoted.

In view of the foregoing considerations, the decision of the court *a quo* is reversed, and the amount of ₱621.87 deposited with the clerk of the Court of First Instance of Manila under official receipt No. 0964937, which represents the proceeds of the sale of the said cigarettes, is ordered confiscated in favor of the plaintiff-appellant, with costs against the defendant-appellee, Manuel Goco.

It is so ordered.

Reyes and *Ocampo, JJ.*, concur.

Judgment reversed.

[No. 10231 and 10234–R January 23, 1954]

THE PEOPLE OF THE PHILIPPINES, plaintiff and appellee, *vs.* AGUSTIN CASTAÑEDA KHO CHOC, defendant and appellant.

CRIMINAL LAW; ROBBERY; INTENTION TO DEPRIVE ONE OF OWNERSHIP, WITH CHARACTER OF PERMANENCY, IMPORTANT; CASE AT BAR.—Since the accused, though breaking the locks of his father's desk, never had the intention of depriving his father of the ownership of the revolver and ammunitions with any character of permanency, but only to threaten his father into giving him money, and since the other essential element of taking (apoderamiento) is not present in the instant case, the accused could not be convicted of robbery. He is, however, guilty of grave threats for having threatened his father.

APPEAL from a judgment of the Court of First Instance of Manila. Macadaeg, *J.*

The facts are stated in the opinion of the court.

Marcelino M. Sayo for appellant.

Assistant Solicitor General Lucas Lacson and *Solicitor Mariano M. Trinidad* for plaintiff-appellee.

FELIX, *J.:*

At about 5:00 o'clock in the afternoon of September 2, 1952, Kho Yee saw her brother, Agustin Castañeda Kho Choc, entering the bedroom of their father, Jose Castañeda Kho, located on the second floor of their house at No. 440 Sto. Cristo Street, Manila, holding a hammer and a screw driver. Out of curiosity Kho Yee peeped through the cracks of the wall and she saw her said brother destroy the locks of the drawers of their father's desk and take therefrom a .45 caliber revolver and a box containing 30 rounds of ammunition, valued at ₱250, belonging to their father. Kho Yee hurriedly ran downstairs and told her father what she had just witnessed and they both went hurriedly upstairs to verify what was happening. Upon reaching the top flight they met Agustin who, pointing the revolver at his father, addressed him thus: "Putang ina mo, if you do not give me ₱50,000 I am going to kill you." The father being scared raised his hands and told his son to wait as he was going downstairs to get the money, but instead of doing this the father repaired to the Meisic Police Station to report the matter. A short while afterwards the father, accompanied by four policemen in plain clothes returned to the house and Agustin upon seeing them cocked the gun and threatened to shoot them, but in spite of these first acts of hostility later he peacefully surrendered to the policemen who then took him to the police station where he made the sworn statements Exhibits F and F–1.

Because of these facts Agustin Castañeda Kho Choc was charged in the Court of First Instance of Manila in two separate cases with the crimes of robbery (criminal case No. 20077–CA–G. R. No. 10231–R) and grave threats (Criminal case No. 20078–CA–G. R. No. 10234–R), which were tried jointly by agreement of the parties. After hearing the court found the accused guilty thereof and sentenced him to suffer in the case of robbery; the penalty of from 4 years, 9 months and 11 days of *prisión correccional,* as minimum, to 6 years, 8 months and 1 day of *prisión mayor,* as maximum, and to pay the costs; and in the case of grave threats to suffer the penalty of from 2 months and 1 day of *arresto mayor,* as minimum,

to 2 years, 4 months and 1 day of *prisión correccional,* as maximum, and to pay the costs. From these verdicts the defendant appealed to Us and now his counsel maintains that the lower court erred:

1. In not finding that the accused had no intent to gain in taking his father's pistol; and
2. In finding that the accused threatened his father and that such threats constitute grave threats.

With regard to the case of robbery, there is no denial that appellant took his father's revolver and the box containing 30 rounds of ammunition by force and in the manner stated above, but he contends that intent to gain is an essential element of the crime of robbery and that in the perpetration of the act he was not moved by any *animus lucrandi,* which is shown by the fact that inside the drawer in which the pistol was kept there were jewels which the accused did not take, thus negating any intention on his part of robbing his father. The Solicitor General retorts that this contention of appellant is untenable because the *animus lucrandi,* which is an essential element in the crime of robbery, is not to be determined by the fact that the culprit did not take *other objects* which he could have easily taken, and that in the case of People *vs.* Fernández *et al.,* (Court of Appeals—38 Off. Gaz., 985) it was held that "by gain, is meant not only the acquisition of the thing useful to the purposes of life, but also the *benefit* which is any other sense may be derived or expected from that which is performed," and that the explanation of appellant that he took his father's revolver in order to use it to destroy his own life, granting that to be true, though it was not carried out, is of no moment for it would not contradict the fact that he took the revolver for some benefit.

Intent to gain is an essential element common to both robbery and theft, but We find it immaterial and not decisive and determining factor in the proper solution of the present controversy. The writer of this decision had already occasion to discuss this point lengthily both in the case of People *vs.* Galang *et al.,* (43 Off. Gaz., 577) and in his concurring opinion in the case of People *vs.* Sebastian Mateo (CA–G. R. No. 3514–R, promulgated October 17, 1949). In the case of People *vs.* Galang *et al.,* we said the following:

"ART. 308 of the Revised Penal Code defining the crime of theft, reads thus:

'Theft is committed by any person who, with intent of gain but without violence against or intimidation of persons nor force upon things *shall take* personal property of another without the latter's consent', and there seems to be no need of pressing too much the proposition that the element of taking referred to in this

article, means the act of depriving another of the possession and dominion of a movable thing coupled, like in crimes of abduction (U. S. *vs.* García, 30 Phil., 74) with the intention, *at the time of the 'taking'* of withholding it with *character of permanency.* In the case at bar, the only witness for the prosecution, policeman Gutierrez, honestly declared and frankly admitted that Leonardo Atienza was known to him, which undoubtedly caused him to entrust the care and custody of the jeep to him, and that when he came out of the Dalisay Theater, the other boys informed him that Leonardo Atienza went towards Plaza Sta. Cruz *and was to return soon.* Such being the case, it cannot be properly said that the jeep was removed from the possession of policeman Gutierrez with any character of permanency, and without notice, and although it is true that they were unable to return the jeep to him, that was due to causes beyond their control, and without the least intention on their part to get the property away from its lawful owner.

In the case of People *vs.* Mateo, *supra,* We also said the following:

"The Spanish text of article 308 of the Revised Penal Code reads, in part, as follows:

'ART. 308. Hurto—Quienes lo cometen.—Cometen hurto los que, con ánimo de lucrarse y sin violencia o intimidación en las personas ni fuerza en las cosas, *se apoderan* de una cosa mueble ajena sin la voluntad de su dueño.'

The meaning of the verb *apoderar* is to make one-self the owner of a thing (*hacerse dueño de una cosa*) placing it under one's control (Dec. of the Sup. Ct. of Spain of Nov. 28, 1903). Considering this definition given by the Supreme Court of Spain of the term *apoderar* or *apoderarse,* in connection with this element of theft, We see that a person who carries away, be it a horse, a carabao or an automobile, *without any design of appropriating it for himself,* but of returning it to the owner, does not come within the scope of the vocable 'apoderarse', necessary pre-requisite of all crimes of theft (and of robbery), even though he might derive some benefit or gain from the momentary use or possession of the thing. That is why We maintain, as held in the case of People *vs.* Galang *et al., supra,* that 'the act of depriving another of the possession and dominion of a movable thing (must be) coupled with the *intention, at the time of the taking,* of withholding it with character of permanency. Of course such intention may be frustrated, as it was frustrated in the case at bar.

The decision in the case of People *vs.* Fernandez *et al., supra* was based on the assumption that there was that taking with intent of gain, because in the words of Groizard 'by using things, we derive from them utility, satisfaction, enjoyment, and pleasure, or what amounts to the same thing, real gain.'; or, as the Supreme Court held, 'by gain is meant not only the acquisition of thing useful to the purposes of life, but also the benefit which in any other sense may be derived or expected from the act which is performed.' Of course, We have no quarrel with either Mr. Groizard or the Supreme Court over the concept of the word 'gain', but We most emphatically maintain that the scope of such term, as held by said authorities, does not affect or contradict our contention relative of the element of 'taking'. It is true that Groizard, whose knowledge of penal laws We are the first to recognize, seems to hold a contrary view, but that is no reason for a Court to blindly follow his opinion without submitting it to mature study and consideration. So let Us see how he delves on this subject. From his work on 'El Código Penal de 1870', Vol. VI p. 53, 2nd

Edition, the following, translated into English, is quoted:

'And what will happen if from the record appears that the defendant, by moral or physical force, has taken the thing, not with intent to appropriate it for himself, nor to dispose of its ownership, but merely to use the same and return it afterwards to the owner? Let us suppose that a person who needs a horse to go from one place to another, meets a man on the way and violently despoils him of his horse. If after using the horse for which the offender had taken possession of it, he returns the animal to the owner, will he be liable for robbery? Of course. Because the intent to gain evidently exists. By using things we derive from them utility, satisfaction, enjoyment and pleasure, or what amounts to the same thing, real gain. To make use of an object is, therefore, an act which from the standpoint of *animus lucri* has all the necessary objectivity to give place either to a crime of robbery with violence against persons, or with force upon things, as the case may be.'

Under the circumstances of the case of the example we maintain that if the return of the horse was an after-thought of the occurrence, the crime, or course, was one of robbery; but if at the time of the *taking* (*apoderamiento*) of the horse the wrong-doer already had the intention of returning that property to the owner, under no circumstances could he be held liable for robbery, even though he proposed to derive some benefit from his acts. He would be guilty of coercion or unjust vexation, crimes which are often committed under the impulse of an idea of gain, albeit this motive is not an essential element of such offenses. In support of his contention Mr. Groizard himself cites two old decisions of the Supreme Court of Spain, dated June 3, 1872, and February 16, 1886. The first one does not uphold his theory, and the second has a contrary effect. In the last decision the defendants were acquitted of the crime of robbery, notwithstanding the fact, shown on the record, that the defendants having met another person against whom they entertained previous resentment, intimidated him at the point of a gun, compelled him to lie on the ground and in that situation seized from him the weapon that man was carrying, which the assailants returned on the following day. Although the reason for such acquittal was that there was no intent of gain in the taking of the weapon, and therefore, the outcome of the case has no bearing on the point under consideration and cannot uphold Mr. Groizard's opinion, it seems apparent that in said case the culprits could have derived some benefit by using the arm."

* * * * * * *

'*The prime criterion*, when property is unlawfully taken by force, *determining whether robbery or coercion has been committed, is the intention* of the accused.' (U. S. *vs.* Villa Abrille, 36 Phil., 807)

The French Correctional Court of Saint-Etienne, contrary to the view held in the case of People *vs.* Fernández *et al.*, *supra*, has declared in its decision of July 2, 1928, that the act of an individual that takes an automobile and uses it for a ride, abandoning it afterwards, *does not constitute the crime of theft.*"

In the case at bar it seems clear from the facts shown that appellant never had any intention of depriving his father of the ownership of the revolver and ammunition with any character of permanency. Therefore, and independently of the attendance or not of the element of intent to gain, We find that the other essential element

of *taking*, that is, "apoderamiento" according to the Spanish text, which implies, as aforesaid, the intention to make oneself the owner of a thing (hacerse dueño de una cosa), placing it under one's control, as stated in the decision of the Supreme Court of Spain of November 20, 1903, is not present in the case at bar. Hence, the defendant could not be convicted of robbery under the facts of this case (CA–G. R. No. 10231–R).

With regard to the offense of grave threats, appellant denies having threatened his father, but that is a matter of credibility of the witnesses which is usually left to the judicious appreciation of the trial judge who is in a better position than the appellate court to gauge the credence deserved by the witnesses testifying before him, so that his findings are ordinarily accepted unless the record shows any reason for their disturbance, which does not exist in the case at bar.

The crime committed by appellant comes within the purview of article 282, No. 1, of the Revised Penal Code, punishable with a *penalty next lower by two degrees than that prescribed by law for the crime threatened*, which in the case at bar in *parricide*, punished with *reclusión perpetua* to death. We cannot, however, impose this penalty because the information is silent as to the relation existing between the offender and the offended party, and as it is worded We have merely to consider the crime threatened as simple *homicide* punished with *reclusion temporal* in its full extent (Art. 249, RPC). Lowering this penalty by two degrees We descend to the penalty of *prisión correccional*, also in its full extent, and considering that in the execution of the crime concurred the generic aggravating circumstances of relationship (Art. 15 RPC) and that it was committed with insult or in disregard of the respect due the offended party on account of his rank or age (Art. 14, No. 3, RPC), which shall be merged into one circumstance that can be appreciated even though no averment thereof is made in the information (People *vs.* Collado, 60 Phil., 610), the penalty imposable to appellant for grave threats is *prisión correccional* in its maximum period (Art. 64, No. 3, RPC), or from 4 years, 2 months and 1 day to 6 years.

Wherefore, the decision in criminal case No. 20077—CA–G. R. No. 10231–R–is hereby reversed and the defendant freely acquitted of the crime, with the costs *de oficio*. In Criminal Case No. 20078—CA–G. R. No. 1023–R—the defendant is found guilty of grave threats, and applying the provisions of the Indeterminate Sentence Act he is sentenced to suffer the penalty of from 4 months and 1 day of *arresto mayor* to 4 years, 2 months and 1 day of *prisión correccional*. What this modification as

to the penalty of incarceration, the decision rendered in this case is hereby affirmed, with costs against appellant.

The .45 caliber pistol, serial No. 782622, colt, with 7 rounds of ammunitions and one box containing 30 rounds of ammunitions shall be returned to the owner, José Castañeda Kho, if he is duly licensed to possess the same.

It is so ordered.

Rodas and *Peña, JJ.*, concur.

Judgment modified.

[No. 8263-R. January 28, 1954]

FEDERICO CLAVERIA, GUADALUPE CLAVERIA, FELICIDAD CLAVERIA, EDUARDO CLAVERIA and PAULA ULIVARI, plaintiffs and appellants, *vs.* APOLINAR CORTINA, defendant and appellee.

PLEADING AND PRACTICE; CONTINUANCE, MOTION FOR; COURT'S DISCRETION.—Motions for continuance are addressed to the sound discretion of the court and, in this case, the lower court properly exercised such discretion in denying the motion. It clearly appears that said motion does not conform to the Rules of Court. It contains no proof of service on the opposing party, it was filed only two days in advance of the trial sought to be postponed, and no good or sufficient reason appears why it was not filed at least three days in advance of said date as required.

APPEAL from a judgment of the Court of First Instance of Cagayan. Ladaw, *J.*

The facts are stated in the opinion of the court.

Villacete and *Angel V. Agustin* for plaintiffs and appellants.

Antonio E. Foz for defendant-appellee.

DIAZ, *Pres. J.:*

This action was brought to determine the ownership of a parcel of land located in the barrio of Centro, municipality of Lal-lo, Cagayan, and more particularly described in the complaint. After trial in the lower court, judgment was rendered declaring the defendant, Apolinar Cortina, the owner of the property, ordering the plaintiffs to vacate the same, to pay the defendant a monthly rental of ₱5 from July, 1950 until they finally left the premises, and to pay the costs. From the judgment, an appeal *in forma pauperis* was taken by the plaintiffs.

According to the plaintiffs, the land was originally of the common ownership of the deceased Antonio Claveria and his common-law wife, Paula Ulivari. Plaintiff Federico Claveria is the legitimate son of Antonio by Juliana Siscar. Plaintiffs Guadalupe, Felicidad and Eduardo, all surnamed Claveria, are the natural children of Antonio begotten with

Paula Ulivari, also a plaintiff in this case, with whom he lived after the death of Juliana Siscar. It is the theory of the plaintiffs that after the death of Antonio, his share in the land descended to his children to make them owners thereof in common with Paula Ulivari. It is also alleged that in 1924, Paula Ulivari sold the house built on the land, in which she and the other plaintiffs had lived up to then, to the defendant's mother and that the defendant lived in said house until the outbreak of the last war. In 1947, the house having been destroyed during the war, the defendant sought out the plaintiffs and obtained their permission to rebuild on the land, promising to pay a rental of ₱5 per month on the portion occupied by him. However, the defendant failed to pay any rents and, an action for ejectment having failed, the plaintiffs instituted the present suit for declaration of ownership.

The plaintiffs sought to prove the foregoing by means of the testimony of witnesses and documentary exhibits consisting of tax declarations for 1939 and 1948 and tax receipts for 1929, 1933 and 1937.

On the other hand, the defendant claims that the land in question became the property of the late Antonio Claveria by inheritance from his first wife, Juana Cauilan, who died in 1899 or 1900. In 1923, shortly before his death, Antonio sold it to his sister, Maria Claveria Vda. de Cortina, mother of the defendant, who assigned it three years later to the said defendant. The defendant has been in possession since 1923, but it was only in 1926 that he declared it in his name under tax declaration No. 17338. The plaintiffs continued to live in the land with the permission of his mother and later of himself up to the outbreak of the last war. After the war, when they asked his permission to reoccupy a portion of the land, he gave it, but upon the condition that they leave whenever he needed for his own use. In February, 1948, he asked the plaintiffs to vacate but, instead of complying, they brought suit against him, first for ejectment and later for declaration of ownership.

The defendant also tried to prove his claim by presenting various witnesses, tax declarations for 1926 and 1948, and tax receipts for 1940, 1941 and 1948.

After a careful study of the proofs, the court finds a distinct preponderance in favor of the defendant. In the first place, the claim that the land was originally owned in common by Antonio Claveria and plaintiff Paula Ulivari finds no support in the evidence. The tax declarations presented by the plaintiffs mention either Antonio Claveria or his heirs as owner, never Paula Ulivari. Similarly, the tax receipts are made out in the name of Antonio Claveria,

with no mention at all of Paula Ulivari. Maximiana Laurilla, one of the plaintiffs' witnesses, merely testified on this point that Antonio Claveria and Paula Ulivari lived as common-law spouses on the property in question, a fact plainly insufficient to prove that said property was owned in common by these persons. Paula Ulivari herself, when she took the stand, failed to testify on this point, though, being allegedly the co-owner in question, she was peculiarly in a position to prove her claim as such.

The other proofs of the plaintiffs do not amount to much, since tax declarations and tax receipts are not strong evidence of ownership and are even less so when other proofs of the same kind exist in favor of another person. The testimonial evidence of ownership proceeds mostly from the plaintiffs themselves and, as such, cannot be accepted without caution.

For the defendant, the proofs appear to be stronger and more credible. He presented an earlier tax declaration in his name and has satisfactorily explained the absence of similar proofs for the intervening period between 1926 and 1948. The deed of sale by means of which Antonio Claveria allegedly sold the property to Maria Claveria Vda. de Cortina, though also lost or otherwise unavailable, has been proved by the testimony of the only surviving subscribing witness whose veracity and lack of bias the record shows no reason to doubt. Finally, it has also been proved that the plaintiffs themselves tacitly admitted the defendant's ownership of the property. Bernardo Landeta testified that he was a cockpit licensee of Lal-lo in 1936 and 1937; that, with the permission of the defendant, he erected a cockpit on a portion of the land in question, paying for this privilege a quarterly rental of ₱10 to the defendant; and that it was Martin Cirio, deceased husband of plaintiff Guadalupe Claveria, who advised him to solicit the permission of the defendant for the erection of the cockpit. Another witness, Filadelfo Rosales, testified that he was treasurer of the "Sociedad Galleristica de Lal-lo," successor to Bernardo Landeta; that from 1938 to 1940, he continued to pay rentals to the defendant for that portion of the land on which the cockpit was erected; that plaintiff Paula Ulivari and Martin Cirio were members of the "Sociedad"; and that neither of these persons ever claimed from him or from the association such rentals or any portion of them.

In the only error which does not take issue with the lower court's appreciation of the evidence, the plaintiffs alleged that said court erred and gravely abused its discretion in denying their motion for postponement dated January 8, 1951. As a result of such denial, it is further

alleged, the plaintiffs were prevented from adducing additional evidence and the defendant enjoyed the added advantage of presenting his evidence in the absence of opposing counsel.

The court finds no merit in this assignment of error. Motions for continuance are addressed to the sound discretion of the court and, in this case, the lower court properly exercised such discretion in denying the motion. It clearly appears that said motion does not conform to the Rules of Court. It contains no proof of service on the opposing party, it was filed only two days in advance of the trial sought to be postponed (p. 13, record on appeal). and no good or sufficient reason appears why it was not filed at least three days in advance of said date as required.

Wherefore, finding the judgment appealed from without reversible error, the court hereby affirms the same, without pronouncement as to costs.

It is so ordered.

Paredes and *Natividad, JJ.*, concur.

Judgment affirmed without pronouncement as to costs.

[No. 11156-R. February 3, 1954]

TEODORO RAYALA, petitioner, *vs.* Hon. ANGEL M. MOJICA, as Judge of the Court of First Instance of Albay, FLORENTINO IMPERIAL, Clerk of Court of Albay, and as Sheriff Provincial Ex-oficio, and ENRIQUE REVILLA, respondents.

RECORD ON APPEAL; FAILURE OR REFUSAL TO AMEND RECORD ON APPEAL, SUFFICIENT GROUND FOR DISAPPROVAL.—Petitioner's failure or refusal to amend his record on appeal within the period granted to him for the purpose constitutes sufficient legal ground for the disapproval thereof. This being so, it seems obvious that the writ of mandamus prayed for does not lie.

ORIGINAL ACTION in the Court of Appeals. Mandamus with injunction.

The facts are stated in the opinion of the court.

Teodoro Rayala on his own behalf, as petitioner.
Vibal & Farin for respondents.

DIZON, *J.:*

This is an original petition for mandamus to compel the respondent Judge of the Court of First Instance of Albay to approve and certify the amended record on appeal filed by the petitioner, Teodoro Rayala, in Civil Case No. 199 of said court.

On February 3, 1947 Enrique Revilla commenced the above-mentioned civil action against Teodoro Rayala and others in the Court of First Instance of Albay. After the defendants had filed their answer, the case was tried on the merits and, subsequently, final judgment was rendered dismissing the complaint and declaring Rayala the owner of the property in litigation but making it subject "to the claim of the plaintiff in the sum of ₱500."

Not satisfied with the latter portion of the decision, Rayala filed the corresponding notice of appeal, appeal bond and record on appeal within the 30-day period prescribed by the rules. The plaintiff Revilla, now one of the respondents, objected to the approval of the record on appeal upon the grounds set forth in his opposition attached as Annex "B" to the petition for mandamus under consideration.

After the hearing for the approval of the record on appeal on February 7, 1953,—at which Atty. Leovigildo Peña appeared on behalf of Rayala—the respondent Judge announced "in open court that he will disapprove the record on appeal" (Petition for mandamus, p. 3) and thereafter issued the following order:

"Upon petition of Atty. Peña, counsel for plaintiff (defendant), and with an end in view of giving him an opportunity to amend his record on appeal, the consideration of the same is hereby postponed until next Saturday, February 14, 1953 at 8:30 a.m."

When the record on appeal was again considered on February 14, 1953, as provided in the order quoted above, the same did not appear to have been amended in any respect and for that reason the same was disapproved by the court.

The petitioner now contends that the reason why he had not amended his record on appeal at all to make it conform to the opposition filed by his opponent was due to "his sincere belief that on that date the question of whether to amend or not the record on appeal will be decided in accordance with the opposition of the respondent Enrique Revilla's attorneys' and that he "was of the belief that the court in doing so would give him reasonable time within which to present an amended record on appeal" (Petition for mandamus, pp. 2–3).

Upon the facts stated above we cannot now say that the respondent Judge was entirely without justification in disapproving the record on appeal or that petitioner's failure to amend his record on appeal was due to excusable negligence. As admitted by petitioner himself, His Honor had already stated in open court that he would disapprove the record on appeal and it was precisely to enable him to amend said record on appeal that the consideration

thereof was postponed from February 7 to February 14. Petitioner's failure or refusal to amend his record on appeal within the period granted to him for the purpose constitutes, therefore, sufficient legal ground for the disapproval thereof. This being so, it seems obvious that the writ prayed for does not lie.

We are not unmindful of the fact that, to sustain the order of the respondent Judge disapproving the record on appeal would prevent the petitioner from contesting—by appeal—the correctness of that portion of said judgment sentencing him to pay Enrique Revilla the sum of ₱500, but considering his contention that the respondent judge did not have jurisdiction to make such award and that, therefore, the same is null and void, we believe that he must seek relief therefrom by some legal means other than appeal.

Wherefore, the petition under consideration is hereby denied, without costs.

It is so ordered.

Concepcion and *De Leon, JJ.*, concur.

Petition denied without costs.